

ANNEXURE F  
BUDGET RELATED POLICIES

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## **NEWCASTLE MUNICIPALITY**

### **SHORT TERM INSURANCE POLICY**

## SHORT TERM INSURANCE POLICY

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# SHORT TERM INSURANCE POLICY

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## 1. Preamble

1.1 It is required of the accounting officer, to take all reasonable steps to ensure that the Council has and implemented policies for effective financial and risk management. The safeguarding of assets and the protection of Council against liabilities, is very important which forms part of a proper assets management system as prescribed by Section 63 and needs annual revision in terms of Section 24(2)(c)(v) of the Municipal Finance Management Act 56 of 2003. This requirement is also embedded in the Asset Management Policy and the Loss Policy of the municipality.

1.2. Insurance brokers active in the municipal environment over years prepared a standard for local authority insurance that takes all circumstances related to a municipal environment into account. There are however aspects in addition to this standard that the Council can decide on policy in order to reduce premium without an increase in risk or where the Council is prepared to accept risk due to a very slim probability of the risk event occurring.

## 2. Property to be insured

The following is recommended as a policy on short term insurance of risk and liabilities:

### 2.1 Asset schedules

Upon the appointment of the new Insurance Broker, the Strategic Executive Director and submit the asset register of assets necessary to be covered in terms of this policy, where after such assets shall be categorised in terms of insurance schedules in consultation with the insurance broker.

Subsequent to the appointment of the insurance broker, each head of a department shall immediately on acquisition, submit all assets to be insured to the Strategic Executive Director: Budget and Treasury Office which will need cover shall in accordance to this policy.

The Strategic Executive Director shall ensure that the asset register is regularly updated in order to avoid omissions of assets being covered for any risk of loss of damage, where after all new assets shall be submitted to the Council's insurance broker for insurance purposes.

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Such assets shall accordingly be included in the insurance portfolio through updating of the insurance schedules representing the covers and in category of asset covered in the insurance portfolio.

### 2.2 Property excluded from external insurance

All property owned by or leased to the Council, property held by the Council in trust and/or commission and/or custody and/or under Council's control and/or for which the Council is responsible must be insured *except for the following which are specifically excluded:*

- property more specifically insured by any other firm arrangement.
- dam walls, dam contents, canals, reservoirs and reservoir contents.
- pavilions, sport stadiums, spectator stands, outdoor sports playing or recreational surfaces, athletic tracks.
- loose assets falling within the excess payment of the applicable insurance policy.
- explosives and ammunition.
- bullion.
- precious stones.
- jewellery other than the Mayor's regalia.
- trophies and indexed museum items.
- electrical and communication transmission and distribution lines including cabling and their support structures, other than on or within 150 meters of any insured premises.
- water piping as well as stormwater piping including their supporting structures, other than on or within 150 meters of insured property.
- sewerage piping including their supporting structures other than on or within 150 meters of insured property.
- driveways, pavements, outdoor parking surfaces
- roads, road and railway bridges, road and rail tunnels, manhole covers
- aircraft runways and aprons
- land, topsoil, backfill, drainage or culverts
- accounts receivable
- saving certificates and the like
- property in possession of customers (library books, etc.).
- trees, shrubs and plants
- monuments and statues
- growing timber, growing crops and livestock.

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### 2.3 Contingencies and risks specifically excluded

- any event of risk where the Council is specifically indemnified.
- contingencies arising from landslides and earthquakes.
- removal of rubble or professional fees resulting from any damaged property or structures except for the Newcastle Civic Centre.
- workmen's compensation for personnel covered under the Workmen's Compensation Act.
- first 24-hours' work on the recovery of lost electronic data information.

### 2.4 Damage and risks to be specifically included to the short term insurance portfolio

- houses under rental and selling schemes administrated by the Council.
- all property as contained in the assets schedules.
- contractors all risk for high-risk construction as identified by the relevant Head of departments from time to time.
- full theft cover at all insured property.
- all money on the premises or in transit to a maximum at any stage at any premises in cash and in cheques.
- fidelity insurance based on all positions higher than Task Grade 12 and including, excluding councillors.
- comprehensive motor own damage and third party liability on a motor fleet basis including specifically mentioned high valued vehicles.
- full comprehensive coverage for all emergency vehicles.
- goods in transit up to R200 000 per single load.
- group personal accident insurance on 24-hour basis for all councillors to a maximum of R500 000 per incident.
- stated benefits (workmen's' compensation) insurance on 24-hour basis for the Councillors in terms of Upper Limits Notice as issued from time to time.
- electronic equipment on the mainframe computer, document imaging system and networks.
- incidental damages including consequential damages at high risk electrical and mechanical plants as identified by the Strategic Executive Director: Electrical Services.
- aerodrome owners liability insurance.
- public liability for bodily injury or damage to an amount of R2-million per event and a total annual coverage of R100-million.
- maximum employers liability of R10-million.

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### **3. Consideration of higher excess payments**

The possibility of paying higher first amounts with claims which might result in lower premiums must constantly be considered by the Strategic Executive Director: Budget and Treasury Office taking into account the best benefit for Council at all times.

### **4. Contribution to Insurance reserve**

4.1 The short term insurance portfolio must be administrated on an internal insurance fund principle as contemplated in the Financial Code of Practice.

4.2 Excess payments on claims are allocated to the Budget and Treasury Office department vote under general expenditure.

4.4 All uninsured assets are replaced from the Self-insurance reserve funds.

### **5. Reporting risk, claims and damage**

It shall be the duty of a head of a department to notify the Strategic Executive Director: Budget and Treasury Office without delay of any new insurable risk or of any alteration in an existing insurable risk which has arisen in connection with his or her department.

On the occurrence of any event giving rise or likely to give rise to a claim by or against the Council or against its insurers, the head of the department concerned shall notify the Strategic Executive Director: Budget and Treasury Office of that event which shall immediately notify the Council's insurer thereof.

The Strategic Executive Director: Budget and Treasury Office shall keep a register in which particulars of all insurance policies held by the Council shall be entered and he shall be responsible for the payment of all premiums and shall ensure that claims that arise under such policies are instituted.

### **6. Claims preparation costs**

The Strategic Executive Director: Budget and Treasury Office shall with annual renewal of insurance or otherwise as regular as required negotiate for the inclusion of exceptional claims preparation costs to be included to the related insurance portfolio.

## SHORT TERM INSURANCE POLICY

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### **7. Disputes and arbitration**

The Strategic Executive Director: Budget and Treasury Office shall with the annual renewal of insurance arrange with the insurance brokers that any disputes as to the amount of liability of the insurers under any of the insurance policies be determined by arbitration in accordance with the laws of the Republic of South Africa.

### **8. Appointment of Insurance brokers**

The Council shall call for tenders for the appointment of insurance brokers at least once every three (3) years, unless circumstances require deviation herefrom. Insurance brokers will be appointed according to their ability to administrate the Council's short term insurance portfolio, the professional people in their employment and their record of sound brokerage service in the municipal environment.

The insurance brokers shall specifically indemnify the Council of increased risk because of the incorrect or unprofessional handling of the placement of insurance or the handling of a specific insurance claim. The insurance broker shall revise the Council's insurance policy annually in collaboration with the Strategic Executive Director: Budget and Treasury Office.

### **9. Implementation of this Policy**

The Accounting Officer shall be responsible for the implementation and administration of this policy through the delegation of Strategic Executive Director: Budget and Treasury Office.

The policy shall be reviewed on annual basis and updated if there are any changes brought about through an amendment of any legislation and/or policies by National Treasury or arrangement within the municipality.

This policy must be read in conjunction with the municipality's Asset Management and the Loss Control policies.



# **NEWCASTLE MUNICIPALITY**

## **LOSS CONTROL POLICY**

## LOSS CONTROL POLICY

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# LOSS CONTROL POLICY

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## 1. INTRODUCTION

Council will bear its own damages and accident risks and be responsible for all claims and losses of Council owned property where these arise from council activities by an official who is liable in law and who is or was employed by council.

Section 78(1)(b-e) of the Municipal Finance Management Act places the onus on each official within the Department to take responsibility for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility. In particular, the official must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised, irregular, fruitless and wasteful expenditure and any under-collection of revenue due.

For the effective management of losses, potential losses and loss control can be divided to the following main functions:

- a) Reporting all claims, losses, and damage
- b) Ensuring the correct format and content of reports with regard to which claims, losses, and damage are registered
- c) Following up and Investigating any claims, losses and damage
- d) Keeping a losses register in which particulars of all losses are recorded
- e) Recovery of money and checking of cases to be finalised

The identification of actions or instances of neglect, which may result in potential claims against or losses for Council, is very important for instituting preventative control measures. The accounting officer or his/her assignee must delegate the responsibilities attached to loss control as set out in the Municipal Finance Management Act in terms of section 79. This official can, where necessary, obtain the support of nominated officials on a decentralised basis.

## 2. DEFINITIONS

For the purposes of this policy the following definitions apply:

**"Claim"** - a lawsuit, action, interdict, arbitration, inquest or dispute and also includes an intended lawsuit, action, interdict, arbitration, inquest or dispute.



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**"Losses"** - any material loss or damages or prejudice to Council or a said person and, without derogating from or limiting the concept, also shortages, damages, fruitless or wasteful expenditure and compensations.

### 3. OBJECTIVE

This document informs departmental officials of the policy on loss control within the Department. This policy applies to all departments and officials of the Newcastle Municipality.

### 4. RESPONSIBILITY FOR LOSSES

The Accounting Officer has in terms of departmental financial delegation delegated the acceptance of liability for any loss or damage suffered by another person, as for a claim against council, which arose from an act or omission of an official, to the Strategic Executive Director concerned.

#### 4.1 In terms of Newcastle Municipality Assets Management Policy:

##### Paragraph 13.2

Insurance provides selected coverage for the accidental loss of the asset value. Generally, government infrastructure is not insured against disasters because relief is provided from the Disaster Fund through National Treasury.

##### Paragraph 13.3 – Safekeeping of Assets:

Directives for the safekeeping of assets shall be developed and the safekeeping of assets shall be actively undertaken. The municipality shall establish and implement the Loss Control Policy for such purpose. This is in view to compliance with the Municipal Finance Management Act and other relevant prescripts

### REPORTING POTENTIAL CLAIMS, LOSSES AND DAMAGE

#### 1. LOSS CONTROL OFFICERS AND THEIR DUTIES

a) On account of the organizational composition of the assets & control, a central loss control officer shall be appointed for the purpose of loss control in a regulated and effective manner.

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b) The loss control officer shall be responsible for loss control in all the departments of the municipality.

c) The Accountant: Asset Management in the Budget and Treasury Office shall assume the position and the responsibilities of a central loss control officer.

### 1.1 Appointment of the central loss control officer

1.1.1 The duties attached to loss control shall be sub-delegated by the Chief Financial Officer to the Accountant: Asset Management in terms of delegation. These powers have been delegated to the Chief Financial Officer by the Accounting Officer.

1.1.2. A copy of the letter of appointment must be sent by the Chief Financial Officer to all departments. This also applies when the appointed loss control officer is replaced. The letter of appointment or resolution of a central loss control officer shall contain his or her particulars regarding his or her name, position, office address and telephone number and the responsibilities attached to the appointment.

### 1.2 The duties of the central loss control officer

1.2.1 The following duties must be delegated to the central loss control officer in writing:

- Obtaining all details, statements, etc. in connection with claims and losses in a loss register
- The timely reporting of all claims and losses to the Chief Finance Officer, Asset Management Committee as well as to the Municipal Insurer. Copies of the Departmental Losses must be submitted to the central loss control officer as soon as all documents are attached.
- Liaising with the Legal Office
- Monitoring claims to prevent prescription
- Reminding all employees periodically, by means of departmental directives, instructions, etc. that everything possible must be done on a continuous basis to prevent claims against Council from arising, or to shield the Council against losses.
- If there were no losses for the period, the CFO must be informed quarterly either by e-mail or in writing that there were no losses.
- Following up with Council Insurance broker and settling of such cases
- Regular checking of losses registers and cases recorded therein
- Checking all cases for authorization by Treasury, the accounting officer or directors

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- The reconciliation of written-off items with the respective lost items in the budgeting of expenditures in cases where book entries have been made for the accounting of the written-off items
- Reporting all cases to the office of Auditor –General
- Introducing preventative measures to avoid the recurrence of any losses
- insuring proper accounting entries for all asset loss and replacement either through council reserves or through the Council insurance broker
- ensure proper administration of recovery of losses after officials, where applicable.

### 2. PROCEDURES FOR REPORTING ALL CLAIMS, LOSSES AND DAMAGE

#### 2.1 Reporting cases to the loss control officer

2.1.1 Each Strategic Executive Director must see to it that all cases (of the kind mentioned above), which arise in the relevant directorate and offices or institutions under its management, are timeously reported to the loss control officer.

2.1.2 Cases must be reported to the loss control officer through the submission of a properly completed loss report

2.1.3 Upon receipt of the report, the loss control officer must enter the case forthwith in the losses register and assign a unique loss register number to it. A case file must also be opened for each case.

#### 2.2 Reporting cases to Chief Finance Officer

2.2.1 The loss control informs the Chief Financial Officer of all cases that have arisen in a particular directorate and in the offices/institutions under its management. The loss report together with any other supporting documentation relevant to the case must be sent to the Chief Financial Officer for noting and monitoring.

2.2.2 The loss report consists of the following sections:

- (a) A loss control form shall be designed and completed by all departments and officials who has suffers loss or damage and submitted to the loss control officer;
- As soon as the forms are received, the loss control officer must allocate a losses register serial number to the case.

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- After it has been completed and signed, the loss control sends the notification report to the Chief Financial Officer.
- The head of the relevant department/section shall complete relevant sections of the form and must see to it that all the required declarations are attached, together with all necessary documents.

### 2.3 General

2.3.1 The loss control officer must ensure that cases as set out above are noted and reported to the Chief Financial Officer and the losses register serial numbers are allocated numerically to cases in the register

2.3.2 No recording of any losses, claims or damage will be dealt with by the departments. Rejections will be dealt with centrally by the loss control officer.

2.3.3 Cases involving more than one item may be reported and entered in the losses register as one case. The number of items and their value must however, be specified separately.

2.3.6 After the cases are recorded by means of the above-mentioned process on the loss control register, the loss control officer must see to it that the cases are followed up and finalized as soon as possible.

### 3. REPORTING TO THE OFFICE OF AUDITOR –GENERAL

If necessary, the loss control officer shall report to the office of the Auditor –General all items written off and all cases of financial crimes committed during the year by officials of the municipality.

### FOLLOWING UP AND INVESTIGATING ANY POTENTIAL CLAIMS, LOSSES AND DAMAGE

#### 1. CASE FILES

1.1 The loss control officer shall keep a case file for each case entered in the loss control register. The correspondence concerning the case and final authorisation to write off the loss, deficit or payment shall be kept in a similar case file.

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1.2 The loss control officer shall keep similar case files updated. The loss control officer must therefore as soon as a case has been finalized, provide the official who submitted the case with the relevant authorisation or decision leading to closure of the case. All addenda to the authorisation and/or decision by the Legal Service, if any, must be attached to the authorisation.

1.3 The case file kept by the loss control officer and filed according to the serial number in the loss control register.

### 2. SAFE-KEEPING AND DISPOSAL OF CASE FILES

2.1 In terms of Section 13(4) of the National Archives of South Africa (Act No 43 of 1996), read with paragraph 1.4 of the Archives Instructions, loss control officers must ensure the safe keeping of all case files, registers and records in their care.

2.2 Disposal of the above-mentioned case files, registers and records will be in terms of paragraph 2 of the Archives Instructions.

### 3. FOLLOWING UP AND DEALING WITH CASES

3.1 The loss control officer must ensure that all cases are followed up regularly and, where applicable, handed over to the South African Police Service.

3.2 If a legal opinion must be obtained for a particular case, the loss control officer shall liaise with the legal section of the municipality and ensure that the following information is provided:

- Full particulars concerning the case and the circumstances that led to it,
- Statements containing all relevant information by all persons involved,
- All other documentation related to the case

3.3 The latest progress made with a case must be cleared indicated in the loss control register and be sent for the attention of the Chief Financial Officer.

3.4 The CFO will regularly check departmental losses in order to ensure regular follow-up and full reporting to the Auditor –General or South African Police Services where applicable.

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### 4. UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

#### 4.1 According to Chapter 1 of the MFMA:

"Fruitless and wasteful expenditure" means expenditure, which was made in vain and which would have been avoided had reasonable care been exercised.

"Irregular expenditure" means expenditure, other than unauthorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including-

- (a) This Act; or
- (b) The Municipal Systems Act (Act 20 Of 1998)
- (c) The Public Office-Bearer Act, 1998
- (d) Any provincial legislation providing for procurement procedures in that provincial government:

"Unauthorized expenditure," means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3) and includes-

- (a) Overspending of the total amount appropriate in the municipality's approved budget
- (b) Overspending of the total amount appropriated for a vote of the approved budget
- (c) Expenditure from a vote unrelated to the department or functional area covered by the vote
- (d) Expenditure of money appropriated for a specific purpose, otherwise than for the specific purpose

4.2 The above-mentioned expenditure must be dealt with according to the guidelines for the preparation of annual reports for national and provincial departments, issued by the National Treasury. These guidelines are updated annually and are available on the National Treasury website of the Office of the Accountant General (OAG) under the public link.

4.3 Where the final outcome of the investigation reveals any negligent on the part of the official, any financial loss shall be recovered directly from the official concerned. Any arrangement to recover such costs shall be decided in consultation with the Chief Financial Officer, the legal department and the official concerned.

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4.4 In cases where the Council insurance broker has settled the claim of a loss, however the official is still regarded as negligent, the official concerned shall be personally liable for excess amount payable by the council to the insurance broker.

4.5 In cases where the loss or damage is contravention of the Criminal Procedure Act No.51 of 1977, the cases shall also be reported to the South African Police Services. Such cases must also be followed up to finality in terms of this policy.

### 5 GENERAL

#### 5.1 CLAIMS AGAINST THE MUNICIPALITY THROUGH ACTS OR OMISSIONS

Council shall accept liability for any loss or damage suffered by another person (Third Party), as for a claim against the municipality, arising from an act or omission of an official. Due cognisance must take place to ensure that claim exist and falls within stated regulations

#### 5.2 CLAIMS BY THE MUNICIPALITY AGAINST OTHER PERSONS

The Accounting Officer has delegated the institution of legal action, where the Council suffers a loss or damage and the other person denies liability, to the Manager: Legal Services. Should it be deemed economical, the matter may be referred to one of panel members of attorneys as appointed by the municipality in terms of its Supply Chain Management Policy.

#### 5.3 CLAIMS BY OFFICIALS AGAINST THE MUNICIPALITY

The Accounting Officer has delegated the compensation of an official, who has suffered a loss or damage in the execution of official duties, to the Strategic Executive Director: Corporate Services, who may make good the loss or damage provided that the official can prove such loss or damage.

#### 5.4 LOSSES OR DAMAGES THROUGH CRIMINAL ACTS OR OMISSIONS

The Accounting Officer has delegate the recovery of losses or damages, through criminal acts or possible criminal acts, to the Manager: Legal Services. The matter shall be reported, in writing, to the Accounting Officer and the South African Police Service. In the case of omission, the matter shall be reported, in writing, to the Accounting Officer. Whether or not

## LOSS CONTROL POLICY

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the person is still in the employ of the Municipality, the Department shall recover the value of the loss or damage from the person responsible.

### 5.5 RECOVERY OF LOSSES AND DAMAGES

Losses and damages suffered by the municipality, because of an act committed or omitted by an official, shall be recovered from such an official if that official is liable in law.

Note: The Accounting Officer has delegated the recovery of losses or damages to the Chief Financial Officer.

### 5.6 UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

The recovery of losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be dealt with in accordance with the MFMA Section (5). The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.

Section 32 (2) (MFMA) states that a municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—

- (a) In the case of unauthorised expenditure, is—
  - (ii) Certified by the municipal council, after investigation by a council Committee, as irrecoverable and written off by the council; and
- (b) In the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

## 6. MANAGEMENT REPORTING

The Budget and Treasury Office shall report on all losses and the status of losses to the Municipal Public Accounts Committee on a monthly basis.

The Chief Financial Officer shall include the following particulars with the annual report and audited financial statements:



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- (a) any material losses through criminal conduct, and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure, that occurred during the financial year;
- (b) any criminal or disciplinary steps taken as a result of such losses, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure;
- (c) any material losses recovered or written off; and
- (d) any other matters that may be prescribed.

### KEEPING AN UPDATED STANDARDISED LOSSES REGISTER IN WHICH ALL PARTICULARS CAN BE ENTERED

1. The loss control officer keeps a central register in which all claims, losses, etc. which arise in the Departments are entered. This register is known as the Central Loss Control register.
2. The losses registers must indicate the following particulars for each case:
  - 2.1 Date received: The date on which the case was received
  - 2.2 The serial number allocated to the case
  - 2.4 The file number of the department/directorate where the case arose
  - 2.5 The date on which the claim, loss, etc. arose or was discovered (N.B. This is not the date on which the loss was reported to the loss control officer.)
  - 2.6 A factual description of the claim losses. If known, the place where it happened and the person responsible must also be mentioned
  - 3.7 The estimated amount of the claim or losses.
  - 3.8 The amount authorized to be written off, where applicable.
  - 3.9 The amount to be recovered from a person or an institution, where applicable
  - 3.10 The rank of the person who, in terms of the delegated powers, gave authorization to write off a loss, recovery of loss or to pay out a claim.
  - 3.11 The number allocated to the delegated authority by which it was authorised
  - 3.12 The latest progress made must be indicated briefly. Full details of the progress made with a case must be entered in the relevant case file

### FINALISING OF CASES

#### 1. FINALISING OF LOSSES

When it has been determined after regular follow-ups that certain losses must be written off or where expenditure needs to be condoned, the loss control officer must draw up the relevant submission (see paragraph 3 & 4 of this chapter).

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### 1.1 Writing off losses against the Council and other cases involving monetary transactions

When authorisation has been obtained in accordance with the delegated powers for writing off a loss or deficit, the following procedure is followed:

1.1.1 When authorisation has been obtained, the Chief Financial Officer provides the loss control officer (who must bring items written off to account) with a copy of the authorisation to make the required journal entry.

1.1.2 The loss control officer, who is doing the journal entry, attaches the copy of the authorization to the original journal and enters the authorization number and the date in the journal.

1.1.3 A copy of the numbered journal must be filed in the file of the loss control officer.

### 1.2 Partial writing off of losses against the Council and other cases involving monetary transactions

When responsibility for the specific loss, damage or deficit has been determined, the following procedure must be followed:

1.2.1 The amount of the loss, damage or deficit, as determined by the foregoing investigation, must be recovered from a particular person or institution. The loss control officer enters this amount in the "amount recoverable" column of the losses register.

1.2.2 As soon as the recoverable amount has been recovered in full, it must be noted as such in the "Follow –up" column of the losses register. Proof of full settlement of the amount, such as copy of the receipt, must be kept in the relevant case file and sent to the loss control officer for closure of the case.

1.2.3 If the debt is to be repaid in the monthly instalments, a copy of this decision with particulars regarding the deductions must be kept in the case file and sent to the loss control officer. For recording purposes, the date on which the last instalment is payable must be entered in the "follow- up" column of the loss register. As soon as the final instalment has been received, all substantiating documents must be sent to the loss control officer for closure of that case.

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1.2.4 If the amount cannot for some reason be recovered, the writing off of the outstanding amount must be considered.

### 1.3 Writing off losses or damage to Council property

1.3.1 Authorisation with full particulars, for something must be available in the case file and sent to the loss control officer.

1.3.2 As soon as the appropriate columns in the loss control register dealing with authorisation have been completed, the loss control officer has been supplied with a copy of the authorization, and the loss control officer has checked the submission, the case is regarded as settled.

1.3.3 "Council property" includes, inter alia:

- all stock and equipment issued or held to be issued;
- all buildings or structures, etc. that are property of the Council
- all vehicles or machinery that belong to the Council

### 1.4 Claims against the Council and ex gratia payments

1.4.1 The payment of a claim or an amount in terms of a settlement by the Legal Department, if the Accounting Officer or the Budget and Treasury Officer approves, can be made against the appropriate provision in the vote item if, at the time of the payment, it had already been established that the Council alone was responsible and that the person in question has not forfeited his or her protection.

1.4.2 Full authorisation (together with addenda referred to in submission, if any) must be attached to the payment form used to apply for payment, to serve as documentary evidence.

1.4.3 If finality concerning the liability of an intended person has not been reached by the time of the payment, the payment is made provisionally from an appropriate suspense account.

1.4.4 Should it be found that the Council is solely accountable; the amount will be settled by journal entry to the appropriate provision on the budget vote concerned. Full particulars concerning the finding and authorization are attached to the journal and must be referred to in the journal.

## LOSS CONTROL POLICY

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1.4.5 If it is found that the intended person is solely accountable, or jointly accountable with the Council, that the part of the claim for which the intended person is responsible plus the legal costs will be recovered from that person and credited to the appropriate suspense account. That part of the claim for which the Council is responsible must be dealt with as described in paragraph 1.4.4 above.

### 2. AUTHORISATIONS

2.1 All claims and loss losses must be allocated a unique serial number as stated in the title of the submission.

2.2 The loss control officer must ensure that the authorisations given by incumbents of posts in departments are appropriate and correct in accordance with delegated powers. If not, the case must be referred back to be corrected by the relevant office/institution which made the submission.

2.3 Authorisations granted by the Budget and Treasury Office and Accounting Officer will be sent via the Chief Financial Officer to the loss control officer for distribution among the offices/institutions concerned.

2.4 Authorisations granted by incumbents of posts in departments and offices resorting under them must be dealt with by the loss control officer.

### 4 IMPLEMENTATION

The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director: Budget and Treasury Office.

The policy shall be reviewed on annual basis and updated if there are any changes brought about through an amendment of any legislation and/or policies by National Treasury or arrangement within the municipality.



# **Newcastle Local Municipality**

## **ASSET MANAGEMENT POLICY**

**19 July 2016**

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## 1. PREAMBLE

Whereas section 14 of the Local Government: Municipal Finance Management Act, 2003 (Act no. 56 of 2003) determines that a municipal council may not dispose of assets required to provide minimum services, and whereas the Municipal Asset Transfer Regulations (Government Gazette 31346 dated 22 August 2008) has been issued.

And whereas the municipal council of Newcastle Local Municipality wishes to adopt a policy to guide the municipal manager in the management of the municipality's assets.

And whereas the municipal manager as custodian of municipal funds and assets is responsible for the implementation of the asset management policy which regulate the acquisition, safeguarding and maintenance of all assets.

And whereas these assets must be protected over their useful life and may be used in the production or supply of goods and services or for administrative purposes.

And whereas the Municipal Manager must ensure an effective Asset Management Committee that will give guidance regarding the execution of the asset management policies and procedures is in operation.

Now therefore the municipal council of the Newcastle Local Municipality adopts the following asset management policy:

## 2. DEFINITIONS

**Accounting Officer** means the Municipal Manager appointed in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act no. 117 of 1998) and



being the head of administration and accounting officer in terms of section 55 of the Local Government: Municipal Systems Act 2000 (Act no. 32 of 2000).

**Agricultural Produce** is the harvested product of the municipality's biological assets.

**Biological Assets** are defined as living animals or plants.

**Assets** are items of Biological Assets, Intangible Assets, Investment Property or Property, Plant or Equipment defined in this Policy.

**Carrying Amount** is the amount at which an asset is recognised after deducting any accumulated depreciation (or amortisation) and accumulated impairment losses thereon.

**Chief Financial Officer (CFO)** means an officer of a municipality designated by the Municipal Manager to be administratively in charge of the budgetary and treasury functions.

**Cost** is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire an asset at the time of its acquisition or construction, or, where applicable, the amount attributed to that asset when initially recognised in accordance with the specific requirements of other Standards of GRAP.

**Critical Assets** are assets identified as having a high risk profile in terms of occupational health and safety standards and the consequence of failure could result in service delivery needs not being met and human health and safety as well as the environment being negatively affected.

**Depreciable Amount** is the cost of an asset, or other amount substituted for cost in the financial statements, less its residual value.

**Depreciation** is the systematic allocation of the depreciable amount of an asset over its useful life.

**Fair Value** is the amount for which an asset could be exchanged or a liability settled between knowledgeable, willing parties in an arm's length transaction.

**GAAP** are standards of Generally Accepted Accounting Practice.

**GRAP** are standards of Generally Recognised Accounting Practice.

**Heritage Assets** are defined as culturally significant resources. Examples are works of art, historical buildings and statues.

**Infrastructure Assets** are defined as any asset that is part of a network of similar assets. Examples are roads, water reticulation schemes, sewerage purification and trunk mains, transport terminals and car parks.

**Intangible Assets** are defined as identifiable non-monetary assets without physical substance.

**Investment Properties** are defined as properties (land or buildings) that are acquired for economic and capital gains. Examples are office parks and undeveloped land acquired for the purpose of resale in future years.

**Land and Buildings** are defined as a class of PPE when the land and buildings are held for purposes such as administration and provision of services. Land and Buildings therefore exclude Investment properties and Land Inventories.

**MFMA** refers to the Local Government: Municipal Finance Management Act (Act no. 56 of 2003).

**Other Assets** are defined as assets utilised in normal operations. Examples are plant and equipment, motor vehicles and furniture and fittings.

**Property, Plant and Equipment (PPE)** are tangible assets that:-

- Are held by a municipality for use in the production or supply of goods or services, for rental to others, or for administrative purposes, and
- Are expected to be used during more than one period.

**Recoverable Amount** is the higher of a cash-generating asset's net selling price and its value in use.

**Recoverable Service Amount** is the higher of a non-cash generating asset's fair value less cost to sell and its value in use.

**Residual Value** of an asset is the estimated amount that an entity would currently obtain from disposal of the asset, after deducting the estimated costs of disposal, if the asset were already of the age and in the condition expected at the end of its useful life.

**Useful Life** is:-

- The period of time over which an asset is expected to be used by the municipality; or
- The number of production or similar units expected to be obtained from the asset by the municipality's accounting officer.

### 3. OBJECTIVE

The MFMA was introduced with the objective of improving accounting in the municipal sector in keeping with global trends. Good asset management is critical to any business environment whether in the private or public sector. In the past municipalities used a cash-based system to account for assets, whilst the trend has been to move to an accrual system.

With the cash system, assets were written off in the year of disposal or, in cases where infrastructure assets were financed from advances or loans, they were written off when the loans were fully redeemed. No costs were attached to subsequent periods in which these assets would be used.

With an accrual system the assets are incorporated into the books of accounts and systematically written off over their anticipated useful lives. This necessitates that a record is kept of the cost of the assets, the assets are verified and the condition assessed periodically, and the assets can be traced to their suppliers via invoices or other such related delivery documents. This ensures good financial discipline, and allows decision makers greater control over the management of assets. An Asset Management Policy should promote efficient and effective monitoring and control of assets.

According to the MFMA, the Accounting Officer in the Municipality should ensure:

- that the municipality has and maintains an effective and efficient and transparent system of financial and risk management and internal control;
- the effective, efficient and economical use of the resources of the municipality;
- the management (including safeguarding and maintenance) of the assets of the municipality;
- that the municipality has and maintains a management, accounting and information system that accounts for the assets and liabilities of the municipality;
- that the municipality's assets and liabilities are valued in accordance with standards of generally recognised accounting practice; and
- that the municipality has and maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

The objective of this Asset Management Policy is to ensure that the municipality:

- has consistent application of asset management principles;
- implements accrual accounting;
- complies with the MFMA, Treasury Regulations, GRAP and other related legislation;
- safeguards and controls the assets of the municipality; and
- Optimises asset usage.

## **ASSET MANAGEMENT COMMITTEE**

To facilitate and assist the Chief Financial Officer in his/her functions, the Municipal Manager, hereby, delegates the custody of and responsibility for assets to the various Strategic Executive Directors (SEDs) as defined in the organisational structure of the Newcastle Local Municipality. Strategic Executive Directors will identify officials on an appropriate level to assist them with the application of the policy and procedures proclaimed from time to time. The Asset Management Committee as established in terms of paragraph 1, must be informed in writing of the appointment of Asset Controllers.

The responsibilities for asset management as detailed hereunder include and remain until the asset is disposed of or transferred to another entity:

- Ensuring that, when acquiring assets, decisions on how to account for the transactions, e.g. whether they should be capitalised or expensed, are made in full compliance with the MFMA, accounting standards, National Treasury and other guidelines;
- Ensuring that the purchase of assets complies with all municipal policies and procedures, including the MTREF;
- Ensuring that the correct date on which an asset is put into service or commissioned is properly recorded in the Asset Register and that the appropriate financial data are recorded;
- Ensuring that all assets are duly processed, identified and recorded before being issued for use;
- Ensuring that all assets under the Asset Manager's control are appropriately safeguarded from inappropriate use or loss, including appropriate control over the physical access to these assets and regular asset verification to ensure losses have not occurred, and

ensuring that any known losses are immediately reported to the Chief Financial Officer and loss control officer;

- Ensuring that proper procedures for the movement of assets from one asset holder to another, for maintenance, or disposals outside the municipality are in place and enforced;
- Ensuring assets are utilised for the purpose for which they were acquired by the municipality.
- Ensuring that all assets having a high risk profile in terms of occupational health and safety standards and the consequence of failure could result in service delivery needs not being met and human health and safety as well as the environment being negatively affected.

#### 4. POLICY FRAMEWORK

The main challenges associated with managing assets can be characterised as follows:

- Moveable assets – controlling acquisition, location, use, and disposal (over a relatively short term lifespan)
- Immovable assets – life-cycle management (over a relatively long-term lifespan).

The policy approach has been to firstly focus on the financial treatment of assets, which needs to be consistent across both the movable and immovable assets, and secondly to focus on the management of immovable assets as a fundamental departure point for service delivery. This arrangement is summarised in Figure 1.



**Figure 1: Proposed policy and strategic framework**

## 5. Asset Recognition

### 5.1 Classification of Assets

#### General

When accounting for assets, the municipality should follow the various standards of GRAP relating to the assets. An item is recognised in the statement of financial position as an asset if it satisfies the definition and the criteria for recognition of assets. The first step in the recognition process is to establish whether the item meets the definition of an asset. Secondly, the nature of the asset should be determined, and thereafter the recognition criterion is applied. Assets are classified into the following categories for financial reporting purposes:

1. Property, Plant and Equipment (GRAP 17)
  - Land and Buildings (land and buildings not held as investment)
  - Community Assets (properties held to provide a social service and rental income is incidental)
  - Infrastructure Assets (immovable assets that are used to provide basic services)
  - Housing Assets (rental stock or housing stock not held for capital gain)
  - Other Assets (ordinary operational resources)
2. Finance Lease Assets GRAP 13 (agreements that transfer the right to use assets even though substantial services by the lessor may be called for in connection with the operation/ maintenance of such assets)
3. Intangible Assets (GRAP 31)
  - Intangible Assets (assets without physical substance held for ordinary operational resources)
4. Investment Property (GRAP 16)
  - Investment Assets (resources held for capital or operational gain)
5. Heritage Assets (GRAP 103)
  - Heritage Assets
6. Agriculture (GRAP 27)
  - Biological Assets (livestock and plants held)

When accounting for Current Assets (that is of non-capital nature), the municipality should follow the various standards of GRAP relating to these assets. Current Assets (with a capital nature) are classified into the following categories for financial reporting purposes:

Further asset classification has been defined in GRAP. The classifications used for infrastructure are limited and do not represent all asset types. However, these classifications are used for financial reporting consistency and should be used.



To facilitate the practical management of infrastructure assets and Asset Register data, infrastructure assets have been further classified. The recommended classifications for all assets are provided in **Appendix B**.

#### Policy

The asset classification specified by GRAP shall be adhered to as a minimum standard. The extended asset classification specified in **Appendix B** shall be adopted.

#### Procedures and Rules

- The Asset Management Committee shall ensure that the classifications specified by National Treasury, GRAP, and those adopted by the municipality are adhered to.
- The Asset Management Committee shall inform Strategic Executive Directors of the classification requirements.
- Strategic Executive Directors shall ensure that all fixed assets under their control are classified correctly.

5.2 <u>Identification of Assets</u>
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#### General

An asset identification system is a means to uniquely identify each asset in the municipality in order to ensure that each asset can be accounted for on an individual basis. Movable assets are usually identified using a barcode system by attaching a barcode to each item. Immovable assets are usually identified by means of an accurate description of their physical location.

#### Policy

An asset identification system shall be operated and applied in conjunction with an Asset Register. As far as practicable, every individual asset shall have a unique identification number.

#### Procedures and Rules

- The Asset Management Committee shall develop and implement an asset identification system, while acting in consultation with Strategic Executive Directors.
- Strategic Executive Directors shall ensure that all the assets under their control are correctly identified.
- As far as practicable, all movable assets must be bar-coded or uniquely marked.
- Immovable assets must be identified using naming and numbering conventions that enable easy location of the assets in the field.
- GPS coordinates must be captured on the Asset Register for infrastructure assets and buildings where practicable. The Head: Information Technology will update the GIS and ensure that the GPS coordinates on the Asset

Register and the GIS are reconciled at least once per year after the annual physical asset verification.

### 5.3 Asset Register

#### General

An Asset Register is a database of information related to all the assets under the control of the municipality. The Asset Register consists of an inventory of all the assets, with each asset having a unique identifying number. Data related to each asset should be able to be stored in the Asset Register. The data requirements for the Asset Register are as follows:

Data type	Land	Movable	Infrastructure/ Buildings
<b>Identification</b>			
• Unique identification number or asset mark	✓	✓	✓
• Unique name	✓	✓	✓
• National Treasury Classification	✓	✓	✓
• Internal Classification	✓	✓	✓
• Descriptive data (make, model, etc.)	✓	✓	✓
• Erf/Registration	✓	✓	✓
• Title deed reference	✓		
<b>Accountability</b>			
• Department	✓	✓	✓
• Insurance reference		✓	✓
<b>Performance</b>			
• Age		✓	✓
• Condition		✓	✓
• Remaining Useful life		✓	✓
• Expected Useful Life		✓	✓
• Technical Asset Residual Value			✓
• Criticality		✓	✓
<b>Accounting</b>			
• Historic cost	✓	✓	✓
• Take on value	✓	✓	✓
• Take on date	✓	✓	✓
• Revalued amount	✓	✓	✓
• Valuation Difference (for purposes of Valuation Reserve and depreciation)	✓	✓	✓
• Depreciation method	✓	✓	✓

Data type	Land	Movable	Infrastructure/ Buildings
• Depreciation portion that should be transferred from Revaluation reserve to accumulated depreciation (where assets were revalued)	✓	✓	✓
• Depreciation charge for the current financial year	✓	✓	✓
• Depreciation charge for ensuing year (for purposes on current portion)	✓	✓	✓
• Impairment losses in the current year	✓	✓	✓
• Accumulated depreciation	✓	✓	✓
• Carrying value	✓	✓	✓
• Residual value	✓	✓	✓
• Source of financing	✓	✓	✓

Assets remain in the Asset Register for as long as they are in physical existence or until being written off. The fact that an asset has been fully depreciated is not in itself a reason for writing-off such an asset.

#### Policy

An Asset Register shall be maintained for all assets. In some cases, such as Investment Properties, Heritage Assets and Intangible Assets, separate Asset Registers will have to be maintained. The format of the register shall include the data needed to comply with the applicable accounting standards and data needed for the technical management of the assets. The Asset Register should be continuously updated and asset records should be reconciled to the general ledger on an annual basis.

#### Procedures and Rules

- The CFO must define the format of the Asset Register in consultation with the Strategic Executive Directors and must ensure that the Asset Register format complies with legislative requirements.
- The Asset Management Committee must ensure that a defined process and forms exist to update and maintain the Asset Register.
- The Strategic Executive Directors must provide the CFO with the information required to compile and maintain the Asset Register.

## **6. RECOGNITION OF ASSETS: INITIAL MEASUREMENT**

#### General

An asset should be recognised as an asset in the financial and asset records when:

- It is probable that future economic benefits or potential service delivery associated with the item will flow to the municipality;
- The cost or fair value of the item to the municipality can be measured reliably;
- The cost is above the municipal capitalisation threshold of R1000; and
- The item is expected to be used during more than one financial year.
- The asset has been identified as a critical asset.

Spare parts and servicing equipment are usually carried as inventory in terms of the Standard of GRAP on *Inventories* and recognised in surplus or deficit as consumed. However, major spare parts and stand-by equipment qualify as property, plant and equipment when the municipality expects to use them during more than one period. Similarly, if the spare parts and servicing equipment can be used only in connection with an item of property, plant and equipment, they are accounted for as property, plant and equipment.

#### Calculation of initial cost price

Only costs that comprise the purchase price and any directly attributable costs necessary for bringing the asset to its working condition should be capitalised. The purchase price exclusive of VAT should be capitalised, unless the municipality is not allowed to claim input VAT paid on purchase of such assets. In such an instance, the municipality should capitalise the cost of the asset together with VAT. Any trade discounts and rebates are deducted in arriving at the purchase price. Listed hereunder is a list, which list is not exhaustive, of directly attributable costs:

- Costs of employee benefits (as defined in the applicable standard on Employee Benefits) arising directly from the construction or acquisition of the item of the Asset
- The cost of site preparation;
- Initial delivery and handling costs;
- Installation costs;
- Professional fees e.g. architects and engineers etc.;
- The estimated cost of dismantling and removing the asset and restoring the site; and
- Interest costs when incurred on a qualifying asset in terms of GRAP 5 (Borrowing Costs).

When payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent. The difference between this amount and the total payments is recognised as an interest expense over the period of credit.

#### Subsequent Expenses

Only expenses incurred on the enhancement of an asset (in the form of improved or increased services or benefits flowing from the use of such asset), or in the material extension of the useful operating life of an asset shall be capitalised.

Expenses incurred in the maintenance or reinstatement of an asset that ensures that the useful operating life of the asset is attained, shall be considered as operating expenses and shall not be capitalised, irrespective of the quantum of the expenses concerned.

### Leased Assets – (GRAP 13)

A lease is an agreement whereby the lessor conveys to the lessee, in return for a payment or series of payments, the right to use an asset for an agreed period of time. Leases are categorised into finance and operating leases:

- A Finance Lease is a lease that transfers substantially all the risks and rewards incident to ownership of an asset, even though the title may or may not eventually be transferred. Where the risks and rewards of ownership of an asset are substantially transferred, the lease is regarded as a finance lease and is recognised as an asset.
- Where there is no substantial transfer of risks and rewards of ownership, the lease is considered an Operating Lease and payments are expensed in the income statement on a systematic basis.

### Policy

All assets shall be correctly recognised as assets and capitalised at the correct value. The capitalisation threshold will be determined annually by the municipality. All assets with values less than the capitalisation threshold and with values greater than R300 shall be recorded in a minor assets inventory unless such assets have been identified as being critical in which case the asset will be recorded in the Asset Register.

### Procedures and Rules

- Strategic Executive Directors shall ensure that all leased assets under their control are correctly accounted for and recognised as assets.
- The CFO must keep a lease register with all the information that is necessary for reporting purposes, for example, opening balance, acquisitions, disposals, transfers, depreciation, accumulated depreciation, etc.

## **7. SUBSEQUENT MEASUREMENT OF ASSETS**

### General

After initial recognition of Property, Plant and Equipment, the municipality values its assets using the cost model, unless a specific decision have been taken to revalue a certain class of assets and in such instance the PPE will be valued using the revaluation or value model.

When an item of PPE is revalued, the entire class of property to which that asset belongs, should be revalued.

When an asset's carrying amount is increased as a result of the revaluation, the increase should be credited to a revaluation surplus. However, the increase shall be recognised in surplus or deficit to the extent that it reverses a revaluation decrease of the same asset previously recognised in surplus or deficit.

When an asset's carrying amount is decreased as a result of devaluation, the decrease should be recognised as an expense in the annual financial statements. However, the

decrease shall be debited directly to a revaluation surplus to the extent of any credit balance existing in the revaluation surplus in respect of that asset.

#### Procedures and Rules

- The CFO shall ensure that all Property, Plant and Equipment are correctly recorded in the Asset Register and revaluated (if applicable) in terms of the municipality's policies.

## **8. Asset Types**

### **8.1 Property, Plant and Equipment: LAND AND BUILDINGS**

#### General

*Land and Buildings* comprise any land and buildings held (by the owner or by the lessee under a finance lease) by the municipality to be used in the production or supply of goods or for administrative purposes and/or to provide services to the community. These assets include building assets such as offices, staff housing, aquariums, cemeteries, clinics, hospitals, game reserves, museums, parks and also include recreational assets such as tennis courts, swimming pools, golf courses, outdoor sports facilities, etc.

Land held for a currently undetermined future use, should not be included in PPE: Land and Buildings, but should be included in Investment Properties. For this class of Land and Buildings there is no intention of developing or selling the property in the normal course of business. This land and buildings include infrastructure reserves.

#### Policy

Land and buildings shall be accounted for using the cost model. Land shall initially be accounted for at cost price, or fair value in cases where cost price is not known, and shall not be depreciated. Land on which infrastructure and/or buildings are located shall be listed separately in the land register and not with the infrastructure or building assets. A reference to the land shall however be included in the infrastructure and/or building Asset Register.

Land and Buildings shall be recorded under the following categories;

- LAND
  - Developed Land
  - Undeveloped Land
- BUILDINGS
  - Dwellings
  - Non-residential Structures

### Procedures and Rules

- The CFO shall ensure that all land and buildings are correctly recorded in the Asset Register. The Asset Management Committee shall ensure that land and buildings are revalued (if applicable) in terms of the municipality's policies.
- The CFO shall ensure the recognition, measurement and revaluation of *Land and Buildings* in terms of GRAP 17.

8.2	<u>Property, Plant and Equipment: INFRASTRUCTURE ASSETS</u>
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### General

*Infrastructure Assets* comprise assets used for the delivery of infrastructure-based services. These assets typically include electricity, sanitation, solid waste, storm water, transport, and water assets. Many infrastructure assets form part of a greater facility e.g. a transformer in a sub-station.

### Level of detail of componentisation

For the technical management of infrastructure, the most effective level of management is at the maintenance item level. It is at this level that work orders can be executed and data collected. This data is useful for maintenance analysis to improve infrastructure management decision making. This level in most cases coincides with the level that means the accounting criteria of different effective lives and materiality. However, the collection of data at this level of detail can be very costly when dealing with assets that are very numerous in nature e.g. water meters, street signs, household connections, etc. It is therefore prudent to balance the value of the information with the cost of collecting the data.

The compilation of a detailed infrastructure Asset Register in one financial term is a costly and onerous exercise. To ensure the practicality of implementing Asset Registers (and asset management planning as a whole), the International Infrastructure Management Manual (IIMM) recommends the adoption of a continuous improvement process as a practical implementation approach. This approach recognises the value of limited data above no data and enables the municipalities to slowly, but steadily, increase their knowledge in the assets they own. The improvement principles of the IIMM recommend starting with complete coverage of the infrastructure types at a low level of detail (e.g. level 2 or 3) and then improving the level of detail over a period of several years, starting with the high risk assets, such as pump stations, treatment works, etc.

### Policy

The infrastructure Asset Register shall ensure complete representation of all infrastructure asset types. The level of detail of componentisation shall be defined to a level that balances the cost of collecting and maintaining the data with the benefits of minimising the risks of the municipality. An improvement plan stipulating the level of detail and the timing of improvements shall be prepared. Infrastructure assets should be valued at cost less accumulated depreciation and accumulated

impairment. If cost can however not be established, then infrastructure assets will be valued at depreciated replacement cost. Depreciated replacement cost is an accepted fair value calculation for assets where there is no active and liquid market. Depreciation shall be charged against such assets over their expected useful lives. The remaining useful life and residual value of, and the depreciation methods applied to Infrastructure assets should be reviewed annually, but the cost related to such reviews should be measured against benefits derived to ensure value for money. Such reviews will have to be performed at least once in a three year cycle.

Infrastructure assets having a high risk profile in terms of occupational health and safety standards and the consequence of failure could result in service delivery needs not being met and human health and safety as well as the environment being negatively affected must be rated as critical in the Asset Register. Assets identified as critical in terms of the aforementioned are identified in **Annexure B**.

*Infrastructure Assets* shall be recorded under the following main categories;

- Electricity Network;
- Roads Network;
- Solid Waste Disposal;
- Storm Water Network

#### Procedures and Rules

- The Asset Management Committee shall define the level of detail of the infrastructure Asset Register in consultation with the Strategic Executive Directors.
- The Asset Management Committee shall approve an improvement process that defines the target level of detail for each infrastructure asset type with the target year of implementation in consultation with the Strategic Executive Directors.
- The Asset Management Committee shall ensure the recognition and measurement of *Infrastructure Assets* in terms of GRAP 17.
- Although a category of assets may not be regarded as critical as a whole, individual assets may fulfil in the definition of criticality and Strategic Executive Directors must inform the Asset Management Committee of such assets or any changes in the criticality of an asset/category of assets and the Asset Registers must be updated accordingly.

8.3 <u>Property, Plant and Equipment: BUILDINGS</u>
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#### General

Housing Assets have their origin from housing units erected in terms of the Housing Act, funded from loans granted by Government and comprise of rental stock or selling stock not held for capital gain.



### Policy

Housing assets are valued at cost less accumulated depreciation and accumulated impairment losses. Depreciation shall be charged against such assets over their expected useful lives.

*Housing Assets* shall be recorded under the following main categories;

- Rental Schemes; and
- Selling Schemes.

### Procedures and Rules

- The Asset Management Committee, in consultation with Strategic Executive Directors, shall ensure that all housing assets are appropriately recorded and valued in terms of the municipality's policies.

8.4	<b>HERITAGE ASSETS – (GRAP 103)</b>
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### General

A *Heritage Asset* is an asset that has historical, cultural or national importance and needs to be preserved. The following is a list of some typical heritage assets encountered in the municipal environment:

- Archaeological sites;
- Conservation areas;
- Historical buildings or other historical structures (such as war memorials);
- Historical sites (for example, historical battle site or site of a historical settlement);
- Museum exhibits;
- Public statues; and
- Works of art (which will include paintings and sculptures).

### Policy

Heritage assets are valued at cost less accumulated impairment losses. No depreciation shall be charged against such assets. If the cost price of heritage assets are not known, then the heritage asset will be valued at fair value.

### Procedures and Rules

- A register of all heritage assets will be kept by the municipality.
- For reporting purposes, the existence of such heritage assets shall be disclosed by means of an appropriate note in the Financial Statements.
- The Asset Management Committee, in consultation with Strategic Executive Directors, shall ensure that all heritage assets are appropriately recorded and valued in terms of the municipality's policies.

General

*Other Assets* include a variety of assets that are of indirect benefit to the communities they serve. These assets include office equipment, furniture and fittings, bins and containers, emergency equipment, motor vehicles, plant and equipment.

Policy

Other assets are stated at cost less accumulated depreciation and accumulated impairment losses. Depreciation shall be charged against such assets over their expected useful lives. Other assets are not revalued.

Other assets having a high risk profile in terms of occupational health and safety standards and the consequence of failure could result in service delivery needs not being met and human health and safety as well as the environment being negatively affected must be rated as critical in the Asset Register. Assets identified as critical in terms of the aforementioned are identified in **Annexure B**.

*Other Assets* shall be recorded under the following main categories;

- Aircraft;
- Bins and Containers;
- Emergency Equipment;
- Furniture and Fittings;
- Motor Vehicles;
- Office Equipment;
- Plant and Equipment;
- Specialised Vehicles;
- Watercraft; and
- Other Assets.

Procedures and Rules

- The Asset Management Committee, in consultation with Strategic Executive Directors, shall ensure that all other assets are appropriately recorded in terms of the municipality's policies.
- Although a category of assets may not be regarded as critical as a whole, individual assets may fulfil in the definition of criticality and Strategic Executive Directors must inform the Asset Management Committee of such assets or any changes in the criticality of an asset/category of assets and the Asset Registers must be updated accordingly.

8.6 <u>Intangible Assets – GRAP 31</u>
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General

*Intangible Assets* can be purchased, or can be internally developed, by the municipality and includes, but are not limited to, computer software, website development cost, valuation roll, servitudes and mining rights.

Policy

Intangible assets are stated at cost less accumulated amortisation and accumulated impairment losses. Such assets are amortised over the best estimate of the useful life of the intangible asset. If an intangible asset is generated internally by the municipality, then a distinction should be made between research and development costs. Research costs should be expensed and development costs may be capitalised if all the criteria set out in GRAP 31 has been met.

Procedures and Rules

- The Asset Management Committee, in consultation with Strategic Executive Directors, shall ensure that all intangible assets are appropriately recorded in terms of the municipality's policies.
- It is the responsibility of the Head of Information Technology to ensure that all licensed computer software other than operating software are accounted.

8.7 <u>Investment Property – GRAP 16</u>
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General

*Investment Property* comprise of land or buildings (or parts of buildings) or both, held by the municipality as owner, or as lessee under a finance lease, to earn rental revenues or for capital appreciation or both. Investment property does not include property used in the production or supply of service or for administration. It also does not include property that will be sold in the normal course of business. Typical investment properties include:

- Office parks (which have been developed by the municipality itself or jointly between the municipality and one or more other parties);
- Shopping centres (developed along similar lines);
- Housing developments (developments financed and managed by the municipality itself, with the sole purpose of selling or letting such houses for profit).
- Land held for a currently undetermined future use. For this class of Land and Buildings there is no intention of developing or selling the property in the normal course of business. This land and buildings include infrastructure reserves.

### Policy

Investment Properties shall be accounted for in terms of GRAP 16 and shall not be classified as PPE for purposes of preparing the municipality's Statement of Financial Position. Investment Property shall initially be measured at its cost. Transaction costs shall be included in this initial measurement. Where an investment property is acquired at no cost, or for a nominal cost, its cost is its fair value as at the date of acquisition.

If the Council of the municipality resolves to construct or develop a property for future use as an investment property, such property shall in every respect be accounted for as PPE until it is ready for its intended use, where after it shall be reclassified as an investment asset.

After initial recognition, all investment property shall be measured at fair value. No depreciation will be calculated against the Investment Property. The fair value of investment property shall be determined annually at reporting date in terms of the municipality's Accounting Policy. The fair value should reflect market conditions and circumstances as at the reporting date.

### Procedures and Rules

- The Asset Management Committee shall ensure that investment property assets are recorded in an Investment Property register.
- The Asset Management Committee shall ensure that an appropriately qualified valuator undertake such valuations on an annual basis.
- The Asset Management Committee shall ensure the recognition and measurement of *Investment Property* in terms of GRAP 16.

8.8 <u>Agricultural Assets – GRAP 27</u>
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### General

*Biological Assets* are living plants and animals such as trees in a plantation or orchard, cultivated plants, sheep and cattle. **Managed agricultural activity** such as raising livestock, forestry, annual or perennial cropping, fish farming that are in the process of growing, degenerating, regenerating and / or procreating which are expected to eventually result in agricultural produce. Such agricultural produce is recognised at the point of harvest. Future economic benefits must flow to the municipality from its ownership or control of the asset.

Point-of-sale costs include commissions to brokers and dealers, levies by regulatory agencies and commodity exchanges, and transfer taxes and duties. Point-of-sale costs exclude transport and other costs necessary to get assets to the market.

Where the municipality is unable to measure the fair value of biological assets reliably, a biological asset should be measured at cost less any accumulated depreciation and accumulated impairment losses.

### Policy

Biological assets, such as livestock and crops, shall be valued annually at fair value less estimated point-of-sales costs.

### Procedures and Rules

- The Asset Management Committee, in consultation with Strategic Executive Directors, shall ensure that all biological assets obtained from a managed agricultural activity, such as livestock and crops, are valued at 30 June each year by a recognised valuator in the line of the biological assets concerned.
- The Asset Management Committee shall ensure the recognition and measurement of *Biological Assets* in terms of GRAP 27.

## **9. Asset Acquisition**

### **9.1 Acquisition of Assets**

#### General

Acquisition of assets refers to the purchase of assets by buying, building (construction), or leasing.

#### Policy

Should the municipality decide to acquire an asset, the following fundamental principles should be carefully considered prior to acquisition of such an asset:

- The purpose for which the asset is required is in keeping with the objectives of the municipality and will provide significant, direct and tangible benefit to it;
- The asset fits the definition of an asset (as defined in GRAP 12, GRAP 16, GRAP 17, GRAP 27, GRAP 31 and GRAP 103)
- The asset has been budgeted for;
- The future annual operations and maintenance needs have been calculated and have been budgeted for in the operations budget;
- The purchase is absolutely necessary as there is no alternative municipal asset that could be economically upgraded or adapted;
- The asset is appropriate to the task or requirement and is cost-effective over the life of the asset.
- The asset is compatible with existing equipment and will not result in unwarranted additional expenditure on other assets or resources;
- Space and other necessary facilities to accommodate the asset are in place; and

#### Procedures and Rules

- The Asset Management Committee shall ensure that the Supply Chain Management Policy makes provision for these principles.
- The CFO shall ensure that all acquired assets are appropriately insured.

## 9.2 Creation of New Infrastructure Assets

### General

Creation of new infrastructure assets refers to the purchase and / or construction of totally new assets that has not been in the control or ownership of the municipality in the past.

### Policy

The cost of all new infrastructure facilities (not additions to or maintenance of existing infrastructure assets) shall be allocated to the separate assets making up such a facility and values may be used as a basis for splitting up construction costs of new infrastructure into its significant components, each of which have an appropriate useful life.

Work in progress shall be flagged as such in the Asset Register until such time that the facility is completed. Depreciation will commence when the construction of the asset is finalised and the asset is in the condition necessary for to operate in the manner intended by management.

Each part of an item of Infrastructure with a cost that is significant in relation to the total cost of the item shall be depreciated separately.

### Procedures and Rules

- Strategic Executive Directors shall ensure that relevant documents are submitted to Finance that includes the details of the work in progress relating to the relevant invoice and/or payment request.
- Strategic Executive Directors shall notify Finance when the works have been completed and the assets can be recognised.
- Strategic Executive Directors shall guide the service provider to submit invoices of work in progress as per the components and classification of assets as in the Asset Register.
- Strategic Executive Directors shall keep a timesheet system for internal staff to capture professional time spent on infrastructure projects. The time shall be priced at recognised professional fee scales and should be included in the capitalisation cost of the asset.

## 9.3 Self-constructed Assets

### General

Self-constructed assets relate to all assets constructed by the municipality itself or another party on instructions from the municipality.

### Policy

All assets that can be classified as assets and that are constructed by the municipality should be recorded in the Asset Register and depreciated over its estimated useful life for that category of asset. Work in progress shall be flagged as such in the Asset Register until such time that the facility is completed. Depreciation will commence when the asset is in the condition necessary for it to operate in the manner intended by management.

### Procedures and Rules

- Strategic Executive Directors shall ensure that proper records of staff time, transport and material costs are kept such that all costs associated with the construction of these assets are completely and accurately accounted for.
- Strategic Executive Directors shall open a job card for each infrastructure project constructed by the municipality.
- Strategic Executive Directors shall keep a timesheet system for internal staff to capture professional time spent on infrastructure projects. The time shall be priced at recognised professional fee scales and should be included in the capitalisation cost of the asset.
- On completion of the infrastructure project, the Strategic Executive Directors shall notify the Budget and Treasury Office of the asset being commissioned and will assist the Budget and Treasury Office in ensuring that all costs (both direct and indirect) associated with the construction of the assets are summed and capitalised to the assets that make up the project.

9.4	<u>Donated Assets</u>
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### General

A donated asset is an item that has been given to the municipality by a third party in government or outside government without paying or actual or implied exchange.

### Policy

Donated assets should be valued at fair value, reflected in the Asset Register, and depreciated as normal assets.

### Procedures and Rules

- All donated assets must be approved by the Asset Management Committee and ratified by Council prior to acceptance.
- The Asset Management Committee must evaluate the future operational costs of donated assets and the effect it might have on future tariffs and taxes, before a donated asset is accepted by the municipality.
- The conditions associated with the donation must be agreed upon and signed by the Municipal Manager.
- Municipal officers must inform the Asset Management Committee of any donations made to the Municipality.





## 10. Asset Maintenance

### 10.1 Useful Life of Assets

#### General

*Useful Life* of assets is defined in paragraph 2 of the Policy and is basically the period or number of production units for which an asset can be used economically by the municipality.

National Treasury (NT) published its Local Government Asset Management Guideline in August 2008 that includes directives for useful lives of assets, but municipalities must use their own judgement based on operational experience and in consultation with specialists where necessary in determining the useful lives for the particular classes of assets. Should the municipality decide on a useful life outside the given parameters, the National Treasury (OAG) should be approached and provided with a motivation, for its agreement of the rate utilised. The calculation of useful life is based on a particular level of planned maintenance.

#### Policy

The remaining useful life of assets shall be reviewed annually. Changes emanating from such reviews should be accounted for as a change in accounting estimates in terms of GRAP 3.

#### Procedures and Rules

- Strategic Executive Directors must determine the reasonable remaining useful lives of the assets under their control. Changes in remaining useful lives must be approved by the Asset Management Committee.
- During annual physical verification the condition of each asset must be reviewed to determine the validity of its remaining useful life as reflected on the Assets Register. All items identified as being impaired (with remaining useful life shorter than anticipated as per the Assets Register) must be reported to the Chief Financial Officer who will implement steps to ensure that the impairments are incorporated in the Assets Register and reported on as required by the relevant standards of GRAP.
- The CFO shall ensure that remaining useful lives, and changes thereof, are properly recorded and accounted for in the Asset Register, general ledger and Financial Statements.
- The Asset Management Committee shall ensure that the *Remaining Useful Life* of an asset shall be reviewed at each reporting date.

### 10.2 Residual Value of Assets

#### General

The *Residual Value* of an asset is the estimated amount that the municipality would currently obtain from disposal of the asset, after deducting the estimated costs of

disposal, if the asset were already of the age and in the condition expected at the end of its useful life.

#### Policy

Residual values should be determined upon the initial recognition (capture) of assets. However, this will only be applicable to assets that are normally disposed of by selling them once the municipality does not have a need for such assets anymore, e.g. motor vehicles. In practice, the residual value of an asset is often insignificant and therefore immaterial in the calculation of the depreciable amount.

The residual value of assets shall be reviewed annually at reporting date. Changes in depreciation charges emanating from such reviews should be accounted for as a change in accounting estimates in terms of GRAP 3.

#### Procedures and Rules

- Strategic Executive Directors must determine the reasonable residual values of the assets under their control. Changes in residual values must be approved by the Asset Management Committee.
- The CFO shall ensure that residual values, and changes thereof, are properly recorded and accounted for in the Asset Register and the general ledger.
- The Asset Management Committee shall ensure that the *residual value* of an asset shall be reviewed at each reporting date.

10.3 <u>Depreciation of Assets</u>
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#### General

Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. Depreciation therefore recognises the gradual exhaustion of the asset's service capacity. The depreciable amount is the cost of an asset, or other amount substituted for cost in the financial statements, less its residual value.

The depreciation method used **must** reflect the pattern in which economic benefits or service potential of an asset is consumed by the municipality. The following are the allowed alternative depreciation methods that can be applied by the municipality:

- Straight-line;
- Diminishing Balance; and
- Sum of the Units.

#### Policy

All assets, except land, investments properties and heritage assets, shall be depreciated over their reasonable useful lives. The *residual value* and the *useful life* of an asset shall be reviewed at each reporting date. The depreciation method applied must be reviewed at each reporting date. Reasonable budgetary provisions shall be made annually for the depreciation of all applicable assets controlled or used by the municipality, or expected to be so controlled or used during the ensuing financial year.

Depreciation shall take the form of an expense both calculated and debited on a monthly basis against the appropriate line item in the department or vote in which the asset is used or consumed. Depreciation of an asset should begin when the asset is ready to be used, i.e. the asset is in the location and condition necessary for it to be able to operate in the manner it is intended by management. Depreciation of an asset ceases when the asset is de-recognized. Therefore, depreciation does not cease when the asset becomes idle or is retired from active use and held for disposal unless the asset is fully depreciated. However, under certain methods of depreciation the depreciation charge can be zero while there is no production.

In the case of intangible assets being included as assets, the procedures to be followed in accounting and budgeting for the amortisation of intangible assets shall be identical to those applying to the depreciation of other assets.

#### Procedures and Rules

- Strategic Executive Directors must ensure that a budgetary provision is made for the depreciation of the assets under their control in the ensuing financial year.
- Strategic Executive Directors must determine the reasonable useful life of the asset classifications under their control. Deviations from the standards of useful life must be motivated in writing to the Asset Management Committee for approval.
- In the case of an asset which is not listed in the asset classification list, Strategic Executive Directors shall determine a useful operating life, in consultation with the CFO, and shall be guided in determining such useful life by the likely pattern in which the asset's economic benefits or service potential will be consumed. The Asset Management Committee must be informed of the additional asset classification and amend the Asset Management Policy accordingly.
- Alternative depreciation methods may be used in exceptional cases, if motivated by the Strategic Executive Director controlling the asset to the Asset Management Committee. The Strategic Executive Director must then provide the Asset Management Committee with sufficient statistical information to make estimates of depreciation expenses for each financial year.
- The CFO shall ensure that depreciation shall be up to date on a monthly basis and be reconciled between the Asset Register and the general ledger.
- The CFO shall ensure that the *residual value, useful life and depreciation method* of an asset shall be reviewed at each reporting date.

10.4	<u>Impairment Losses – GRAP 21</u>
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#### General

Impairment is the loss in the future economic benefits or service potential of an asset, over and above the systematic recognition of the loss of the asset's future economic benefits or service potential through depreciation. For example:

- Significant decline in market value;
- Carrying amount of an asset far exceeds the recoverable amount or market value;
- There is evidence of obsolescence (or physical damage);
- The deterioration of economic performance of the asset concerned; and
- The loss in the future economic benefits or service potential of an asset, over and above the systematic recognition of the loss of the asset's future economic benefits or service potential through depreciation (such as through inadequate maintenance).

The impairment amount is calculated as the difference between the *carrying value* and the *recoverable service value*. The recoverable service value is the higher of the asset's value in use or its net selling price. Where the recoverable service amount is less than the carrying amount, the carrying amount should be reduced to the recoverable service amount by way of an impairment loss. The impairment loss should be recognised as an expense when incurred unless the asset is carried at revalued amount.

If the asset is carried at a revalued amount (in the case of investment property, infrastructure and community assets) the impairment should be recorded as a decrease in the revaluation reserve. Where immovable property, plant and equipment surveys are conducted, the recoverable service value is determined using the depreciated replacement costs method by assessing the remaining useful life.

#### Policy

Assets shall be reviewed annually for impairment. Impairment of assets shall be recognised as an expense, unless if it reverses a previous revaluation in which case it should be charged to the *Revaluation Surplus*. The reversal of previous impairment losses recognised as an expense, is recognised as an income.

#### Procedures and Rules

- The Asset Management Committee must ensure that annual impairment surveys are performed.
- The CFO shall ensure that impairment losses, or reversals thereof, are properly recorded and accounted for in the Asset Register and the general ledger.

10.5	<u>Maintenance of Assets and the Asset Register</u>
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#### General

Maintenance refers to all actions necessary for retaining an asset as near as practicable to its original condition in order for it to achieve its expected useful life, but excluding rehabilitation or renewal. This includes all types of maintenance – corrective and preventative maintenance.

For linear infrastructure assets, such as pipes and roads, the following test is applied to differentiate between maintenance and renewal when partial sections of linear assets are renewed:

- If a future renewal of the entire pipe will include the renewal of the partial section that is now renewed, then the renewal of the partial section is treated as maintenance.
- If a future renewal of the entire pipe will retain the partial section that is now renewed, then the renewal of the partial section is treated as renewal and the pipe is split into two separate assets.

The splitting of linear infrastructure has a data management implication, but it is the easiest method that maintains the data integrity over time.

Maintenance analysis is an essential function of infrastructure management to ensure cost-effective and sustainable service delivery. In order to analyse maintenance data, maintenance actions undertaken against individual infrastructure assets should be recorded against such assets.

#### Policy

Maintenance actions performed on infrastructure assets shall be recorded against the individual assets that are individually identified in the Asset Register.

The risk and criticality of all assets must be assessed in conjunction with the annual physical asset verification process. All assets with a condition rating greater than 3 (three) must be reported to the Asset Management Committee who will give instructions with regard to the criticality grading of the assets on the Asset Register. Strategic Executive Directors must ensure that the assets identified as critical are attended to in order to prevent possible failure.

#### Procedures and Rules

- Strategic Executive Directors responsible for the control and utilisation of infrastructure assets shall monitor maintenance actions and budget for the operation and maintenance needs of each asset or class of assets under their control. Operating expenses must include all labour and material costs for the repair and maintenance of the assets. This includes both contracted services and services performed by employees.
- Strategic Executive Directors shall ensure that the operating expenses are expended against the operating budget and not the capital budget.
- Strategic Executive Directors shall report to the Council annually of the extent to which the approved maintenance plan has been complied with and the extent of deferred maintenance.
- Strategic Executive Directors shall report to the Council annually on the likely effects that maintenance budgetary constraints may have on the useful operating life of the infrastructure asset classes;
- Strategic Executive Directors shall ensure that maintenance plans make provision for the additional maintenance burden of future infrastructure to be acquired.

## 10.6 Renewal of Assets

### General

Asset Renewal is restoration of the service potential of the asset. Asset renewal is required to sustain service provision from infrastructure beyond the initial or original life of the asset. If the service provided by the asset is still required at the end of its useful life, the asset must be renewed. However if the service is no longer required, the asset should not be renewed. Asset renewal projections are generally based on forecast renewal by replacement, refurbishment, rehabilitation or reconstruction of assets to maintain desired service levels.

### Policy

Assets renewal shall be accounted for against the specific asset. The renewal value shall be capitalised against the asset and the expected life of the asset adjusted to reflect the new asset life.

### Procedures and Rules

- The Asset Management Committee must ensure that processes are in place to capture renewals data against specific assets and to capitalise it correctly.
- Strategic Executive Directors shall ensure that renewals expenditure are correctly budgeted for in the capital budget and expensed against this budget.
- Strategic Executive Directors must ensure that renewals expenditure data are correctly captured against the assets and the expected lives adjusted.

## 10.7 Replacement of Assets

### General

This paragraph deals with the complete replacement of an asset that has reached the end of its useful life so as to provide a similar or agreed alternative level of service.

### Policy

Assets that are replaced shall be written off at their carrying value. The replacement asset shall be accounted for as a separate new asset. All costs incurred to replace the asset shall be capitalised against the new asset. The SCMP will be applied.

### Procedures and Rules

- The Asset Management Committee must ensure that processes are in place to capture replacement data against specific assets and to capitalise it correctly.

- Strategic Executive Directors shall ensure that replacement expenditure are correctly budgeted for in the capital budget and expensed against this budget.

## 11. Asset Disposal

### 11.1 Transfer of Assets

#### General

The processes and rules for the transfer of an asset to another municipality, municipal entity or national/provincial organ of state are governed by an MFMA regulation namely "the Local Government: Municipal Asset Transfer Regulations".

Transfer of assets or inventory items refers to the internal transfer of assets within the municipality or from the municipality to another entity. Procedures need to be in place to ensure that the Asset Control Department can keep track of all assets and ensure that the fixed Asset Register is updated with all changes in asset locations. These procedures must be followed and apply to all transfers of assets from:

- One Department to another Department;
- One location to another within the same department;
- One building to another; and
- One entity to another.

#### Policy

The transfer of assets is regulated by the SCMP and shall be controlled by the transfer processes in the policy and the Asset Register shall be updated accordingly.

#### Procedures and Rules

- Strategic Executive Directors must ensure that all asset transfer information is passed to Budget and Treasury Office.
- The CFO must ensure that a process is in place to capture and record asset transfer data.
- Staff of the Municipality, except for duly authorised staff, shall not move rented assets, such as photocopy machines.
- No person shall transfer any IT equipment without the knowledge and written consent of the Head: Information Technology.
- Strategic Executive Directors must immediately report to the Asset Management Committee any damages caused to an asset and will be held responsible to investigate the cause or nature of such damage.

### 11.2 Exchange of Assets

#### General

According to GRAP 17.29 an item of PPE may be acquired in exchange for a non-monetary asset or assets, or a combination of monetary and non-monetary assets.



The cost of such an item of property, plant and equipment is measured at fair value unless:

- (a) the exchange transaction lacks commercial substance; or
- (b) the fair value of neither the asset received nor the asset given up is reliably measurable.

If the acquired item is not measured at fair value, its cost is measured at the carrying amount of the asset given up.

#### Policy

The SCMP will be applied when assets are exchanged. The cost of assets acquired in exchange for another asset shall be measured at the fair value of the asset received, which is equivalent to the fair value of the asset given up, adjusted by the amount of any cash or cash equivalents transferred.

#### Procedures and Rules

- An item of PPE may be acquired in exchange for a similar asset that has a similar use in the same line of operations and which has a similar fair value or may be sold in exchange for an equity interest in a similar asset. No gain or loss is recognised in both cases.
- The Asset Management Committee shall approve all asset exchanges in consultation with the relevant Strategic Executive Director.

11.3 <u>Alienation / Disposal of Assets</u>
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#### General

Alienation / Disposal (alienation) is the process of disowning redundant and obsolete assets by transferring ownership or title to another owner, which is external to the municipality.

The MFMA (section 14 and 90) and the Municipal Supply Chain Management Regulation no. 27636 have specific requirements regarding the disposal of assets. Specifically:

- A municipality may not ... "permanently dispose of a asset needed to provide the minimum level of basic municipal services"
- Where a municipal council has decided that a specific asset is not needed to provide the minimum level of basic services, a transfer of ownership of an asset must be fair, equitable, transparent, competitive and consistent with the municipality's supply chain management policy.

#### Policy

There are various methods of disposal. Different disposal methods will be needed for different types of assets. When deciding on a particular disposal method and consideration of the following, the SCMP on disposal of assets must be applied:

- The nature of the asset
- The potential market value

- Other intrinsic value of the asset
- Its location
- Its volume
- Its trade-in price
- Its ability to support wider Government programmes;
- Environmental considerations
- Market conditions
- The asset's life

Appropriate means of disposal may include:

- Public auction
- Public tender
- Transfer to another institution
- Sale to another institution
- Letting to another institution
- Trade-in
- Controlled dumping (for items that have low value or are unhygienic)

Alienated assets shall be written-off in the Asset Register.

#### Procedures and Rules

- Strategic Executive Directors shall report in writing to the Asset Management Committee on 31 October and 30 April of each financial year on all assets which they wish to alienate and the proposed method of alienation.
- The CFO shall consolidate the requests received from the various departments, and shall promptly report the consolidated information to the Asset Management Committee, recommending the process of alienation to be adopted.
- The Council shall delegate to the Asset Management Committee the authority to approve the alienation of any asset.
- The Council shall ensure that the alienation of any asset takes place in compliance with Section 14 of the Municipal Finance Management Act, 2003. The Act states that the municipality may not alienate any asset required to provide a minimum level of service. The municipality may alienate any other asset, provided the municipality has considered the fair market value and the economic and community value to be received in exchange for the asset.
- Selling: Assets to be sold shall be sold in terms of paragraph 9.4 below.
- Donations: Donations may be considered as a method of alienation, but such requests must be motivated to the Asset Management Committee for approval.
- Destruction: Assets that are hazardous or need to be destroyed must be identified for tenders or quotations by professional disposal agencies.
- Scrapping: Scrapping of assets that cannot be alienated otherwise may be considered as a method of alienation, but such requests must be motivated to the Asset Management Committee.

- Once the assets are alienated, the CFO shall write-off the relevant assets in the Asset Register.
- The letting of immovable property must be done at market-related tariffs, unless the relevant treasury approves otherwise. No municipal property may be let free of charge without the prior approval of the relevant treasury.
- The Asset Management Committee must review, at least annually when finalising the budget, all fees, charges, rates, tariffs or scales of fees or other charges relating to the letting of municipal property to ensure sound financial planning and management.

11.4	<u>Selling of Assets</u>
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General

Selling of assets refers to the public sale of municipal assets approved for alienation.

Policy

The selling of assets must be within the parameters laid down in the SCMP. Further must all assets earmarked for sale be sold by public auction or tender and the following steps shall be followed:

- A notice of the intention of the municipality to sell the asset shall be published in a local newspaper;
- In the case of a public auction, the municipality shall appoint an independent auctioneer to conduct the auction; and
- In the case of a tender, the prescribed tender procedures of the municipality shall be followed.

Sold assets shall be written-off in the Asset Register.

Procedures

- A request for assets to be sold must be submitted to the Asset Management Committee for approval. The request must be accompanied by a list of assets to be sold and the reasons for sale as described in paragraph 9.3 above.
- Assets earmarked for sale shall be reclassified as Assets Held-for-Sale.
- The Asset Management Committee may approve the engagement of auctioneers either on a quotation basis or by tender depending on the goods to be alienated.
- Bidding: Bidders are afforded the opportunity to make an offer on identifiable items. Bids are compared and the highest bidder is awarded the bid.
- Tenders: Tenders shall be invited according to the municipality's tender procedures.
- Once the assets are sold, the CFO shall write-off the relevant assets in the Asset Register.
- If the proceeds of the sales are less than the carrying value recorded in the Asset Register, such difference shall be recognised as a loss for the

department or vote concerned in the Statement of Financial Performance. If the proceeds of the sales, on the other hand, are more than the carrying value of the asset concerned, the difference shall be recognised as a gain for the department or vote concerned in the statement of financial performance.

- Transfer of assets to other municipalities, municipal entities (whether or not under the municipality's sole or partial control) or other organs of state shall take place in accordance with the above procedures, except that the process of alienation shall be by private treaty.

#### 11.5 Writing-off of Assets

##### General

The write-off of assets is the process to permanently remove the assets from the Asset Register. Assets can be written-off after approval of the Asset Management Committee of a report indicating that:

- The useful life of the asset has expired;
- The asset has been destroyed;
- The asset is out dated;
- The asset has no further useful life;
- The asset does not exist anymore;
- The asset has been sold; and
- Acceptable reasons have been furnished leading to the circumstances set out above.
- The SCMP has been adhered to.

The CFO may approve the *ad hoc* writing-off of assets without prior approval of the Asset Management Committee on condition that –

- The write-offs fall after but between the next scheduled Asset Management Committee meeting and financial year end closure; and
- The Asset Management Committee is informed of the write-offs at the next scheduled Asset Management Committee meeting.

##### Policy

The only reasons for writing off assets, other than the sale of such assets during the process of alienation, shall be the loss, theft, destruction, material impairment, or decommissioning of the asset in question.

##### Procedures and Rules

- Strategic Executive Directors shall report to the CFO on 31 October and 30 April of each financial year on any assets which such Strategic Executive Director wishes to have written-off, stating in full the reason for such recommendation. The CFO shall consolidate all such reports, and shall promptly submit a recommendation to the Asset Management Committee on the assets to be written off.

- An asset, even though fully depreciated, shall be written-off only on the recommendation of the Strategic Executive Director controlling or using the asset concerned, and with the approval of the Asset Management Committee.
- In every instance where a not fully depreciated asset is written off with no proceeds for the asset being obtained, the CFO shall immediately debit to such department or vote the full carrying value of the asset concerned as impairment expenses.
- Assets that are replaced should be written-off and removed from the Asset Register.

## 12. Asset Physical Control

### 12.1 Physical Control / Verification

#### General

Movable assets require physical control and verification of existence.

#### Policy

All movable assets shall be actively controlled, including an annual verification process.

#### Procedures and Rules

- All movable assets, where practicable, must have a visible bar code or unique asset marking as determined by the Asset Management Committee.
- Annual verification of movable assets should be conducted under the direction of Finance. This procedure would enable the municipality to identify discrepancies and dispositions and properly investigate and record the transactions.
- Procedures should be established to adequately identify assets owned by others or subject to reclamation by donors.
- The Asset Management Committee shall co-ordinate and control regular physical checks, and all discrepancies are to be reported immediately to the Asset Management Committee.
- Registers must be kept for those assets allocated to staff members. The individuals are responsible and accountable for the assets under their control. These registers should be updated when the assets are moved to different locations or allocated to a different staff member in order to facilitate control and physical verification.
- Where a change in person in direct control of equipment takes place, a handing-over certificate shall be completed and signed by both parties concerned and a copy of this certificate must be forwarded to Finance. If surpluses or deficiencies are found, the certificates shall be dealt with as with stock-taking reports.
- If for any reason the person from whom the asset is being taken over is not available, the asset controller should assist the person taking over with the checking of the equipment and the certification of any discrepancies.
- In case of failure to comply with the requirements of a handing-over certificate, the person taking over shall be liable for any shortages, unless it can be established that the shortages existed prior to their taking over.
- Any losses of and damage to equipment, excluding discrepancies at stocktaking of losses resulting from normal handling or reasonable wear and tear, shall be reported to the Asset Management Committee.
- Independent checks from asset records shall be conducted to ensure that the assets physically exist, especially those that could be disposed of without a noticeable effect on operations.

- Yearly physical inspections of assets shall be performed to identify items which are damaged, not in use or are obsolete due to changed circumstances, to ensure that they are appropriately repaired, written off or disposed of.
- All newly acquired assets shall be delivered to / received by the procurement section where the assets will be bar-coded before dispatch to the persons who will be the custodians of the assets. Where this is not practicable, the acquired assets must be delivered to the section issuing the requisition and that section must notify the procurement section so that bar-coding or asset marking can be arranged.
- Delivery of assets by procurement staff must be to the person requiring the asset and he/she will sign a form accepting responsibility for the asset.
- The Asset Management Committee may, on request of a Strategic Executive Director, waive full physical verification and accept written confirmation from the Strategic Executive Director of infrastructure assets being verified during the course of a financial period as part of routine and/or planned maintenance and/or physical inspections. Documentation in this regard must be kept by departments and be available for inspection. The Chief Financial Officer will inform the external auditors of the Asset Management Committee's decision

## 12.2 Insurance of Assets

### General

Insurance provides selected coverage for the accidental loss of the asset value. Generally, government infrastructure is not insured against disasters because relief is provided from the Disaster Fund through National Treasury.

### Policy

Assets that are material in value and substance shall be insured at least against destruction, fire and theft. All municipal buildings shall be insured at least against fire and allied perils. Land shall not be included for the purpose of insurance.

### Procedures and Rules

- The Asset Management Committee will ensure that all assets are properly insured in terms of the policy.

## 12.3 Safekeeping of Assets

### General

Asset safekeeping is the protection of assets from damage, theft, and safety risks.

### Policy

Directives for the safekeeping of assets shall be developed and the safekeeping of assets shall be actively undertaken. The municipality shall establish and implement the Loss Control Policy for such purpose.

### Procedures and Rules

- The Asset Management Committee must issue directives that detail the safekeeping of assets.
- Strategic Executive Directors must ensure that safekeeping directives are adhered to.
- Malicious damage, theft, and break-ins must be reported to the CFO and loss control officer within 48 hours of its occurrence or awareness. The CFO will inform the Asset Management Committee of such occurrence.
- The Municipal Manager must report criminal activities to the South African Police Service.
- If any biological asset is lost, stolen or destroyed, the matter shall be reported in writing by the Strategic Executive Director concerned in exactly the same manner as though the asset were an ordinary asset.



## 13. Asset Financial Control

### 13.1 Funding Sources

#### General

The Municipal Finance Management Act (MFMA) provides guidelines on how to utilise funds in financing assets (Section 19 of MFMA). The municipality shall utilise any of the following sources to acquire and / or purchase assets:

- Grants;
- Donations;
- Internally Generated Funds;
- External Loans; and / or
- Leases.

# **ANNEXURES**

## ANNEXURE A ABBREVIATIONS

AM	Asset Management
AMC	Assets Management Committee
AMS	Asset Management System
CFO	Chief Financial Officer
DM	District Municipality
EPWP	Expanded Public Work Program
GAMAP	Generally Accepted Municipal Accounting Practice
GIS	Geographical Information System
GRAP	Standards of Generally Recognised Accounting Practice
HR	Human Resource
IAM	Infrastructure Asset Management
IAMP	Infrastructure Asset Management Plan
AR	Asset Register
IAR	Infrastructure Asset Register
IAS	International Accounting Standards
IDP	Integrated Development Plan
MFMA	Municipal Finance Management Act
MTREF	Medium Term Revenue and Expenditure Framework
NT	National Treasury
OAG	Office of the Accountant General
LM	Local Municipality
O&M	Operation and Maintenance
SCMP	Supply Chain Management Policy

## ANNEXURE B

### ASSET HIERARCHY

	CLASS	MINOR GROUP	EUL (YRS)	EUL (MONTHS)
	LAND	LAND	0	0
		LANDFILL SITE	55	660
	BUILDINGS	BUILDING	30	360
	INFRASTRUCTURE	ROADS AND PAVING	80	960
		BRIDGES	80	960
		STORMWATER	50	600
		ELECTRICAL SUBSTATIONS	30	360
		FENCING	20	240
		LAYERING	20	240
		ELECTRICAL MAINS	20	240
		CONTAINERS	10	120
		POWER STATION	60	720
		RETICULATION	25	300
		ELECTRICITY TRANSFORMERS	30	360
		UNDERGROUND LINES	45	540
		ELECTRICITY PANELS	5	60
		STREET LIGHTING	25	300
		TELEMETERY	7	84
		OVERHEAD LINES	30	360
		CABLES	45	540
	COMMUNITY	CLINIC AND HEALTH FACILITIES	30	360
		STADIUMS	80	960
		SECURITY SYSTEMS	5	60
		CEMETERY	30	360
		COMMUNITY HALLS	80	960
		LIBRARY	80	960
	OTHER ASSETS	HONEY SUCKER TANKER	10	120
		BINS AND CONTAINERS	5	60
		EMERGENCY EQUIPMENT	5	60
		MOTOR VEHICLES	5	60
		FURNITURE AND FITTINGS	7	84
		PLANT AND EQUIPMENT	5	60
		COMPUTER EQUIPMENT	5	60



# **NEWCASTLE MUNICIPALITY**

## **FUNDING & RESERVES POLICY**

## FUNDING & RESERVES POLICY

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# FUNDING & RESERVES POLICY

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## 1. PREAMBLE

The funding and reserves policy is aimed at ensuring that the municipality has sufficient and cost-effective funding in order to achieve its objectives through the implementation of its operating and capital budgets.

This policy aims to set guidelines towards ensuring financial viability over both the short- and long-term which includes reserves requirements.

## 2. POLICY OBJECTIVES

2.1 The objectives of the policy are to:

- 2.1.1 Ensure that the Medium Term Expenditure Framework (annual budget) of the municipality is appropriately funded.
- 2.1.2 Ensure that cash resources and reserves are maintained at the required levels to avoid future year unfunded liabilities.
- 2.1.3 To achieve financial sustainability with acceptable levels of service delivery to the community.

## 3. SCOPE OF THE POLICY

This policy shall apply to the Council, Exco, Finance Portfolio Committee, Budget Steering Committee, Accounting Officer, Strategic Executive Directors and all staff of the municipal council. It is, however, specifically applicable to the council and all officials who have a formal, administrative duty to prepare, manage and control the municipal's budget and expenditure.

## 4. APPLICABLE LEGISLATIVE

4.1 The legislative framework governing borrowings are:

- 4.1.1 Local Government Municipal Finance Management Act, Act 56 of 2003; and
- 4.1.2 Local Government Municipal Budget and Reporting Regulation, Regulation 393, published under Government Gazette 32141, 17 April 2009.

## **FUNDING & RESERVES POLICY**

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### **5. FUNDING OF ANNUAL BUDGET**

- 5.1 An annual budget may only be funded from:
- (a) cash backed accumulated funds from previous years surpluses and reserves not committed for any other purpose;
  - (b) borrowed funds but only for capital expenditure; and/or
  - (c) Grant Finding.
- 5.2 Realistic anticipated revenue projections must take into account:
- (a) projected revenue for the current year based on collection levels to date.
  - (b) actual revenue collected in previous financial years.
- 5.3 Capital expenditure may only be incurred on a capital project only if:
- (a) the funding for the project has been appropriated in the capital budget.
  - (b) the total cost for the project has been approved by Council.
  - (c) the future budgetary implications and projected cost covering all financial year until the project is operational has been considered.
  - (d) the implications of the capital budget on municipal tax and tariff increases.
  - (e) the sources of funding are available and have not been committed for other purposes.

### **6. CASH MANAGEMENT**

- 6.1 The availability of cash is one of the most important requirements for working capital management and must be closely monitored to ensure a minimum days cash on hand of forty five (45) days for its daily operations.
- 6.2 Changes in the municipal environment that may have an impact on the municipal cash flow position include:
- (a) changes in revenue levels as a result of consumption patterns (water restrictions, load shedding etc.);
  - (b) reduced growth as a result of economic conditions;
  - (c) increase in non-payment rate as a result of economic conditions;
  - (d) implementation of electricity industry pricing policy (inclining block tariffs).
  - (e) increased debt levels.



## FUNDING & RESERVES POLICY

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- 6.3 Surplus cash not immediately required for operational purposes is invested in terms of the municipality's investment policy to maximize the return on investment.

### 7. DEBT MANAGEMENT

- 7.1 Debt is managed in terms of the municipal credit control and debt collection policy and the writing off of bad debts and impairments of debtors policy.
- 7.2 The provision for revenue that will not be collected are budgeted as an expense and is based on the projected annual non-payment rate for each service.

### 8. OPERATING BUDGET

- 8.1 The operating budget provides funding to departments for their medium term expenditure as planned. The municipality categorises services rendered to the community according to its revenue generating capabilities.
- (a) trading services – services that generate surpluses that can be used for cross subsidization to fund other services.
  - (b) economic services – services that break even with no surpluses.
  - (c) rates and general services – services that are funded by rates, surpluses generated by trading services, and/or other revenues generated such as fines, interest received, grants and subsidies etc.
- 8.2 The operating budget is funded from the following main sources of revenue:
- (a) property rates.
  - (b) surpluses generated from service charges.
  - (c) government grants and subsidies.
  - (d) other revenue, fines, interest received etc.
  - (e) cash backed accumulated surpluses from previous years not committed for any other purposes.
- 8.3 The following guiding principles apply when compiling the operating budget:
- (a) the annual budget must be balanced.
  - (b) growth parameters must be realistic taking into account the current economic conditions.

## FUNDING & RESERVES POLICY

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- (c) tariff adjustments must be realistic, taking into consideration the general inflation, affordability, bulk increases and the demand according to the approved Integrated Development Plan (IDP).
- (d) Revenue from government grants and subsidies must be in line with allocations gazetted in the Division of Revenue Act and provincial gazettes.
- (e) Revenue from public contributions, donations or any other grants may only be included in the budget if there is acceptable documentation that guarantees the funds such as:
  - (i) signed service level agreement;
  - (ii) contract or written confirmation; or
  - (iii) any other legally binding document.
- (f) Property rates are levied according to the Municipal Property Rates Act, and property rates policy based on land and improvement values. The budget is compiled using the latest approved valuation and supplementary roll, consistent with current and past trends. Property rates tariffs and rebates are determined annually as part of the tariff setting process.
- (g) Property rates rebates, exemptions and reductions are budgeted either as revenue foregone or a grant as per directive in MFMA Budget Circular 51 depending on the conditions thereof.
- (h) Projected revenue from service charges must be realistic based on current and past trends with expected growth considering the current economic conditions. The following factors must be considered for each service:
  - (i) Metered services comprise of electricity and water:
    - the consumption trends for the previous financial years;
    - envisaged water restrictions or load shedding when applicable; and
    - actual revenue collected in previous financial years.
  - (ii) Refuse removal services:
    - the actual number of erven receiving the service per category; and
    - actual revenue collected in previous financial years.
  - (iii) Sewerage services:
    - the actual number of erven receiving the service and the consumption trends per category; and
    - actual revenue collected in previous financial years.

## FUNDING & RESERVES POLICY

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- (i) Rebates, exemptions or reductions for service charges are budgeted either as revenue foregone or as a grant as per directive in MFMA Budget Circular 51 depending on the conditions thereof.
- (j) Other projected income is charged in terms of the approved sundry tariffs and fines considering the past trends and expected growth for each category.
- (k) Provision for revenue that will not be collected is made against the expenditure item bad debt and based on actual collection levels for the previous financial year and the projected annual non-payment rate.
- (l) Interest received from actual long-term and or short-term investments are based on the amount reasonably expected to be earned on cash amounts available during the year according to the expected interest rate trends. Transfers from the accumulated surplus to fund operating expenditure will only be allowed for specific once-off projects and with no recurring operating expenditure resulting thereof.
- (m) Transfers from the accumulated surplus to offset the increased depreciation charges as a result of the implementation of GRAP 17 will be phased out over a number of years.
- (n) A detailed salary budget is compiled on an annual basis. All funded positions are budgeted for in total and new and/or funded vacant positions are budgeted for six (6) months only of the total package considering the recruitment process. As a guiding principle the salary budget should not constitute more than 35% of annual operating expenditure.
- (o) Depreciation charges are fully budgeted for according to the asset register and to limit the impact of the implementation of GRAP 17 a transfer from the accumulated surplus is made. However the annual cash flow requirement for the repayment of borrowings must fully be taken into consideration with the setting of tariffs.
- (p) To ensure the health of municipal assets, sufficient provision must be made for the maintenance of existing and infrastructure assets based on affordable levels, resulting that maintenance budgets are normally lower than the recommended levels. Therefore the mere reduction of maintenance budgets to balance annual budgets must carefully be considered. As a guiding principle repair and maintenance should constitute between 5 and 8% of total operating expenditure and should annually be increased incrementally until the required targets are achieved.
- (q) Individual expenditure line items are to be revised each year when compiling the budget to ensure proper control over expenditure. Increases for these line

## FUNDING & RESERVES POLICY

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items must be linked to the average inflation rate and macro-economic indicators unless a signed agreement or contract stipulates otherwise.

### 9. CAPITAL BUDGET

- 9.1 The capital budget provides funding for the municipality's capital programme based on the needs and objectives as identified by the community through the Integrated Development Plan and provides for the eradication of infrastructural backlogs, renewal and upgrading of existing infrastructure, new developments and enlargement of bulk infrastructure.
- 9.2 Provisions on the capital budget will be limited to availability of sources of funding and affordability. The main sources of funding for capital expenditure are:
- (a) accumulated cash backed internal reserves;
  - (b) borrowings;
  - (c) government grants and subsidies; and
  - (d) public donations and contributions,
- 9.3 The following guiding principles applies when considering sources of funding for the capital budget:
- (a) Government grants and subsidies:
    - (i) only gazette allocations or transfers as reflected in the Division of Revenue act or allocations as per provincial gazettes may be used to fund projects;
    - (ii) the conditions of the specific grant must be taken into consideration when allocated to a specific project; and
    - (iii) government grants and subsidies allocated to specific capital projects are provided for on the relevant department's operating budget to the extent the conditions will be met during the financial year.
  - (b) In the case of public contributions, donations and/or other grants, such capital projects may only be included in the annual budget if the funding is guaranteed by means of:
    - (i) signed service level agreement;
    - (ii) contract or written confirmation; and/or
    - (iii) any other legally binding document.

## FUNDING & RESERVES POLICY

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- (c) Public donations, contributions and other grants are provided for on the relevant department's operating budget to the extent the conditions will be met during the financial year.
- (d) The borrowing requirements as contained in the borrowing policy are used as a basis to determine the affordability of external loans over the Medium Term Income and Expenditure Framework. The ratios to be considered to take up additional borrowings:
  - (i) long-term credit rating of BBB;
  - (ii) interest cost to total expenditure to not exceed 8%;
  - (iii) long-term debt to revenue (excluding grants) not to exceed 50%;
  - (iv) payment rate of above 95%;
  - (v) percentages of capital charges to operating expenditure less than 18%.
- (e) Allocations to capital projects from cash backed internal reserves will be based on the available funding for each ring-fenced reserve according to the conditions of each reserve as follows:
  - (i) infrastructure projects to service new developments and the revenue is received through the sale of erven must be allocated to the capital reserve for services ;
  - (ii) capital projects of a smaller nature such as office equipment, furniture, plant and equipment etc. must be allocated to the capital reserve from revenue which is funding from the revenue budget for that specific year. A general principle is that these types of capital expenditure should not exceed more than 1% of total operating expenditure;
  - (iii) capital projects to replace and/or upgrade existing assets will be allocated to the capital replacement reserve;
  - (iv) capital projects to upgrade bulk services will be allocated to the capital bulk contributions reserve for each service.

9.4 All capital projects have an effect on future operating budget therefore the following cost factors should be considered before approval:

- (a) additional personnel cost to staff new facilities once operational;
- (b) additional contracted services, that is, security, cleaning etc.
- (c) additional general expenditure, that is, services cost, stationery, telephones, material etc.
- (d) additional other capital requirements to the operate facility, that is, vehicles, plant and equipment, furniture and office equipment etc.
- (e) additional costs to maintain the assets;

## FUNDING & RESERVES POLICY

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- (f) additional interest and redemption in the case of borrowings;
- (g) additional depreciation charges;
- (h) additional revenue generation. The impact of expenditure items must be offset by additional revenue generated to determine the real impact on tariffs.

### 10. RESERVES

10.1 All reserves are “*ring fenced*” as internal reserves within the accumulated surplus, except for provisions as allowed by the General Recognized Accounting Practices (GRAP).

10.2 The following ring fenced reserves exist:

(a) *Capital reserve for new developments*

This reserve is used to fund capital expenditure to service new developments. Each development is ring fenced within this reserve. The valuer determines the price for the erven to be sold and the revenue generated through the sale of erven is then allocated to the specific development. This reserve must be cash backed to ensure the availability of cash to fund the capital expenditure required to service the erven.

(b) *Capital replacement reserve*

Funding for capital budgets of future financial years are generated through a combination of methods. Once a municipality has reached its maximum gearing ability no further borrowings can be taken up. This necessitates that the municipality also invests in a capital replacement reserve, however, it must be cash backed.

This reserve once fully established will enable the municipality to provide internal funding for its capital replacement and renewal programme.

In the past the cash generated from depreciation was used for the redemption payments on borrowings only. The increased asset value as a result of GRAP 17 has resulted that the depreciation charges increased drastically which was not supported by cash.

## FUNDING & RESERVES POLICY

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To limit the tariff increases a non-cash contribution was made from the depreciation reserve to offset the depreciation charge.

Depreciation is a method to generate future cash. Therefore it is anticipated to annually incrementally decrease the offset depreciation charge from the depreciation reserve with 2% until the depreciation is fully funded from cash through tariff setting.

Other contributions to the capital replacement reserve through the operating budget are:

- (i) interest received on investments;
- (ii) surface rentals from mines as identified from time to time; and

This reserve must be cash backed to ensure the availability of cash to fund the municipal capital programme.

*(c) Bulk capital contribution reserves*

This reserve is to supplement capital expenditure for the necessary expansions and upgrading of bulk infrastructure due to new developments. Revenue generated through bulk services contributions are allocated to this reserve for each applicable service. This reserve must also be cash backed.

### 11. PROVISIONS

A provision is recognised when the municipality has a present obligation as a result of a past event and it is probable, more likely than not, that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Provisions are revised annually and those estimates to be settled within the next twelve (12) months are treated as current liabilities.

The municipality has the following provisions:

*(a) Leave provision*

## FUNDING & RESERVES POLICY

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Liabilities for annual leave are recognised as they accrue to employees. An annual provision is made from the operating budget to the leave provision. Due to the fact that not all leave balances are redeemed for cash, only 75% of the leave provision is cash backed.

*(b) Landfill rehabilitation provision*

The landfill site rehabilitation provision is created for the current operational site at the future estimated time of closure. The value of the provision is based on the expected future cost to rehabilitate the landfill site. This provision must be cash backed to ensure availability of cash for rehabilitation on closure.

*(c) Long services awards*

Municipal employees are awarded leave days according to years in service at year end. Due to the fact that not all long service leave balances are redeemed for cash, only 75% of the long service leave provision is cash backed.

*(d) Post employment medical care benefits*

The municipality provides post retirement medical care benefits by subsidizing the medical aid contributions to retired employees and their legitimate spouses. The entitlement to post retirement medical benefits is based on employees remaining in service up to retirement age and the completion of a minimum service period. The expected cost of these benefits is accrued over a period of employment. This provision must be cash backed to ensure the availability of cash for the payment of medical aid payments.

### 12. OTHER ITEMS TO BE CASH BACKED

*(a) Donations, public contributions, unspent grant funding*

Revenue received from conditional grants, donations and funding is recognised as revenue to the extent that the municipality has complied with any of the criteria, conditions or obligations embodied in the agreement. Unspent amounts in relation to donations, public contributions and unspent grant funding are therefore retained in



## FUNDING & RESERVES POLICY

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cash and are not available to fund any other items on the operating or capital budget other than that for which it was intended for.

### *(b) Consumer deposits*

Consumer deposits are partial security for a future payment of an account. Deposits are considered a liability as the deposit is utilised on the account once the service is terminated. Therefore the funds are owed to consumers and can therefore not be utilised to fund the operating or capital budget.

Consumer deposits should be retained in cash. Due to the fact that it is not likely to redeem all of the consumer deposits at once, only 75% are cash backed.

## **13. IMPLEMENTATION AND REVIEW OF THIS POLICY**

13.1 The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director for Financial Services Department once approved by Council.

13.2 In terms of section 17(1) (e) of the Municipal Finance Management Act, 2003 this policy shall be reviewed on annual basis to ensure that it complies with changes in applicable legislation, regulations and any other directive issued by National Treasury and tabled to Council for approval as part of the budget process.

13.3 This policy must be read in-conjunction with the Budget and Borrowing Policies; Local Government Municipal Finance Management Act, Act 56 of 2003; and Local Government Municipal Budget and Reporting Regulation, Regulation 393, published under Government Gazette 32141, 17 April 2009.



## **NEWCASTLE MUNICIPALITY**

### **PETTY CASH POLICY**

# PETTY CASH POLICY

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# PETTY CASH POLICY

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## 1. PREAMBLE

- 1.1 Where the need may arise in a department of the municipality to have cash available for payments of a minor and non-recurring nature and it is impracticable to follow Supply Chain Management policies and procedures for every expense, such payments (excluding remuneration for services rendered) may be made by means of petty cash facilities.

## 2. POLICY OBJECTIVES

The objective is to provide guidelines on the usage and management of petty cash by Newcastle Municipality.

## 3. SCOPE OF POLICY

This policy applies to all Newcastle Municipal employees, whether full-time or part-time, or paid on a salaried or an hourly individual basis and to duly appointed cashiers.

## 4. APPLICABLE LEGISLATION

- 4.1 Municipalities must comply with the requirements of the Municipal Finance Management Act, Act 56 of 2003 (MFMA) and Newcastle Municipality has incorporated the applicable principles, objectives and prescripts in its policy on the management and control of petty cash.
- 4.2 The MFMA endeavours "to regulate financial management in the municipalities; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the responsibilities of persons entrusted with financial management in those municipalities; and to provide for matters connected therewith."
- 4.3 In particular, Section 78(1)(b) and (c) of the MFMA places the onus on each employee within the municipality to take responsibility for the effective, efficient, economical and transparent use of financial and other resources within that employee's area of responsibility. In particular, the employee must take effective and appropriate steps to prevent, within that employee's area of responsibility, any

## PETTY CASH POLICY

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unauthorised, irregular, fruitless and wasteful expenditure and any under-collection of revenue due.

### 5. POLICY PRINCIPLES

- 5.1 Before approving expenditure or incurring a commitment to spend using petty cash, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation. All transactions must be supported by authentic documents.

### 6. POLICY PROCEDURES

#### 6.1 Approval of Petty Cash Float

- 6.1.1 The Strategic Executive Director: Financial Services Department or delegated official shall be responsible for making application for petty cash facility or for increase of the operational amount of an existing petty cash float to the Accounting Officer for consideration and decision.
- 6.1.2 The application shall state sound and valid reasons for the need of petty cash float and the amount required for its operation, as well as the cost centre and vote number from which funds are to be applied for petty cash. The amount applied for must be sufficient to cover expenses for approximately one month.
- 6.1.3 The municipality shall keep petty cash not exceeding R5 000.00 which must be reviewed on annual basis.
- 6.1.4 The use of petty cash shall be limited to minor requirements for which a single transaction shall not exceed R500.00.
- 6.1.5 In cases where the municipality has an account with the supplier or can negotiate opening an account, the municipality should avoid at all cost to use petty cash but use the account in terms of the policies of the municipality, in particular Supply Chain Management policy which regulates acquisition and disposal of goods and services.

## PETTY CASH POLICY

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### 6.2 Appointment of Petty Cash Officers

- 6.2.1 The Strategic Executive Director: Financial Services Department must appoint in writing one of the Creditors Clerks as a petty cash custodian who shall be assigned the responsibility of managing and controlling petty cash. The custodian of petty cash must acknowledge appointment by appending his or her signature and date as an acceptance of the responsibilities and must abide by the contents of the this policy and MFMA.
- 6.2.2 The Strategic Executive Director: Financial Services Department must appoint in writing one of the Accountants as a relief petty cash custodian who shall be assigned the responsibility of managing and controlling petty cash in the absence of the designated petty cash custodian. The Accountant must acknowledge appointment by appending his or her signature and date as an acceptance of the responsibilities and must abide by the contents of this policy and MFMA.
- 6.2.3 During absence of the designated petty cash custodian, the designated Accountant must assume the responsibilities as a relief petty cash custodian. The petty cash custodian and relief petty cash custodian must ensure that they are familiar with all relevant statutory requirements and institutional responsibilities attached thereto.
- 6.2.4 Should the Strategic Executive Directors wish to keep petty cash float within their departments, the Strategic Executive Director: Financial Services Department must satisfy himself whether there were proper and sound controls within that department and assess the reasons for request for petty cash float.
- 6.2.5 Where petty cash float has been approved by the Accounting Officer for departments or sub-offices and satellite offices, the responsibility for operating petty cash and safe keeping rest with the Strategic Executive Director of that particular department. Strategic Executive Directors must assign to the designated petty cash custodians who have financial acumen only and who have no previous conviction or suspicions relating to commercial crimes (e.g. theft, fraud, corruption, funds embezzlement, forgery, bribery, uttering, extortion etc).
- 6.2.6 Officials who have garnishee orders against their salaries must not be appointed as petty cash custodians.

## PETTY CASH POLICY

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### 6.3 Custody & Safe Keeping of Petty Cash

6.3.1 The petty cash custodians are responsible for controlling of petty cash float, together with supporting documentation. Specifically the custodian is responsible for the following:

6.3.1.1 Petty cash float (including original receipts and vouchers) must be kept secured in a locked cash box.

6.3.1.2 The office and the safe where petty cash float is kept shall at all times be kept locked and the key to the safe where cash float is kept shall be kept by the petty cash custodian.

6.3.1.3 The petty cash custodian must sign for the key and must be always kept in a safe place.

6.3.1.4 Only petty cash custodian must have access to and disburse petty cash. Handling of petty cash must only take place in secure locations.

6.3.1.5 The petty cash custodians must ensure that petty cash is only disbursed to authorised officials when an original requisition signed by a duly delegated official has been produced.

6.3.1.6 The petty cash custodian must not process requisitions that is not authorised by the Strategic Executive Director or delegated official.

6.3.1.7 The petty cash custodian must not process requisition that has not been checked, signed and dated by the Accountant who is the supervisor of the custodian.

6.3.1.8 The petty cash custodians must not put her personal monies or of any other officials in the box and the safe where petty cash is kept.

6.3.2 If petty cash float is lost, the Petty Cash Officer responsible for that petty cash shall be held liable.

### 6.4 Application for Petty Cash

6.4.1 The department that requires petty cash has to complete a requisition which must be authorized and signed by the Strategic Executive Director. The requisition must be submitted to the Accountant.

6.1.2 In cases where minor expenditure was incurred by officials during official trips e.g. parking and toll fees. Such expenditure may be claimed from petty cash but a requisition must still be completed.

## PETTY CASH POLICY

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### 6.5 Issuing of Petty Cash

- 6.5.1 On receipt of requisition the Accountant must check the requisition and be satisfied that it correct in every respect and authentic, sign and date the requisition as evidenced that she has checked it. Once checked and signed the Accountant must submit the requisition to petty custodian.
- 6.5.2 The petty cash custodian completes a petty cash voucher using information on the requisition and hand over cash to the official that submitted the requisition.
- 6.5.3 The official receiving such cash must acknowledge receipt by appending his or her signature and date on the petty cash voucher. The requisition is then attached to the petty cash voucher by the petty cash custodian.
- 6.5.4 The official who received petty cash must submit original receipts to the petty cash custodian before the close of business on the date on which petty cash was received.
- 6.5.5 The municipal official receiving petty cash is entirely accountable for the amount.
- 6.5.6 If the official who received petty cash fails to submit the original receipts before the close of business, the petty cash custodian must follow-up the next morning. If no original receipts are submitted on the following day by close of business, the matter must be escalated to the Accountant who shall refer the matter to the Manager.

### 6.6 Recording of Petty Cash

- 6.6.1 The petty cash custodian records the date of petty cash voucher, requisition number, petty cash voucher number, description of what petty cash is required for and the amount on the petty cash register. The petty cash register must be numbered throughout consecutively for control purposes.
- 6.6.2 The expenditure in respect of the petty cash requested will be debited against the vote of the department that requested cash.
- 6.6.3 All entries on the requisition, petty cash voucher, expenditure voucher and petty cash register must be recorded in ink and no correcting fluid or tip-ex must be used.



## PETTY CASH POLICY

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- 6.6.4 The petty cash register must be balanced at the end of each month by the petty cash custodian or relief petty cash custodian. All petty cash vouchers and requisitions must be reconciled to the petty cash register at the end of each month.
- 6.6.5 The petty cash custodian must sign and date the petty cash register as evidence that it was done by him or her.
- 6.6.6 After the balancing of the petty cash register it must be reviewed by the Accountant. The Accountant must append his or her signature and date on the petty cash register as evidence of review.

### 6.7 Reimbursements

- 6.7.1 The petty cash custodian completes the "expenditure voucher" and attaches all requisitions and petty cash vouchers to the expenditure voucher. The expenditure voucher must be signed by the petty cash custodian, Accountant as a checking official and Manager as authorizing official.
- 6.7.2 Once the expenditure voucher has been processed the cheque is issued in favour of the Municipal Manager, in his capacity as accounting officer. The cheque is presented at the bank in exchange for cash to replenish petty cash.
- 6.7.3 Where the banker of the municipality
- 6.4.2 Petty cash shall be reimbursed on a monthly basis.

## 7. GENERAL CONTROL MEASURES

- 7.1 When the petty cash custodian is on leave a proper handing over certificate should be completed with the relief petty cash custodian. The handing over should be done after reconciliation and balancing petty cash. This process should be done under the supervision of the Finance Manager. The handing over certificate should be signed by the official handing over and the official taking over petty cash as well as the Finance Manager who witnessed the handing over process.

## PETTY CASH POLICY

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- 7.2 When the petty cash custodian is on sick leave or any unplanned leave due to circumstances that are beyond the official and a proper handing over cannot be done a key to the safe and cash box must be collected by the Accountant and the Finance Manager if petty cash is urgently required.
- 7.3 The manager must investigate the reasons for non-compliance with this policy and make recommendations. This recommendation will be based on the written explanation submitted by the official who received petty cash.
- 7.4 Should the matter remain unresolved by the attempts by the manager, the manager must refer the matter to the Director and at this level the Strategic Executive Director whose official received petty cash must be involved and be asked to take the necessary disciplinary measures in terms of the code of conduct of the municipality.
- 7.5 Should the Strategic Executive Director whose official received petty cash fail to resolve the matter within that month on which petty cash was received the following must take place:
  - 7.5.1 The Strategic Executive Director or delegated official who authorised the requisition shall be held responsible for reimbursement of petty cash should proof of purchase in the form of receipt not be submitted before the close of the same day on which petty cash was handed over or within 24 hours from the date of receipt of petty cash.
  - 7.5.2 Should the Strategic Executive Director or delegated official fail to comply with paragraph 7.2.3.1 above the full amount of petty cash shall be deducted from his/her salary without any further notice.
- 7.6 The Finance Manager must conduct surprise review of petty cash on hand against the petty cash register and petty cash vouchers and requisitions on quarterly basis.
- 7.7 Internal auditors and Auditor-General staff are entitled to conduct any surprise petty cash audit at any time and must not be prevented from doing so.

## PETTY CASH POLICY

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### 8. IMPLEMENTATION AND REVIEW OF THIS POLICY

- 8.1 The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director for Financial Services Department once approved by Council. All future applications for indigent registrations must be considered in accordance with this policy.
- 8.2 In terms of section 17(1) (e) of the Municipal Finance Management Act, 2003 this policy shall be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.



THE NEWCASTLE  
**MUNICIPALITY**  
NEWCASTLE KWAZULU-NATAL

**SUPPLY CHAIN MANAGEMENT POLICY**

2018/2019

Approved by Council on xx May 2018

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## SUPPLY CHAIN MANAGEMENT POLICY FOR INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT

## 1. Policy Statement / Preamble

The Municipal Finance Management Act, (Act No.56 of 2003), as amended, provides that the Newcastle Municipality has a duty to take effective and active measures to be financially efficient, effective, transparent and economical through its supply chain management (SCM) processes.

## 2. Purpose

The purpose of this policy is to regulate the supply chain management functions and systems of the municipality.

## 3. Objective

- a. To provide a framework to implement the provisions of section 217 of the Constitution of the Republic of South Africa in order to:
- b. Implement a policy that is fair, equitable, transparent, competitive and cost effective and complies with all the applicable provisions of the Municipal Finance Management Act (MFMA).
- c. Ensure consistency with the legal framework for MSCM.
- d. Ensure that the municipality's strategic objectives are achieved.

## 4. Definitions

In this SCM Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and

**“competitive bidding process”** means a competitive bidding process referred to in paragraph 19 (1) (d) of this SCM Policy;

**“competitive bid”** means a bid in terms of a competitive bidding process;

**“final award”**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

**“formal written price quotation”** means quotations referred to in paragraph 19 (1) (c) of this SCM Policy;

**“Family member”** means a parent, sibling, child or spouse of a member

**“in the service of the state”** means to be –

- a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the National Assembly or the National Council of Provinces;
- a) a member of the board of directors of any municipal entity;
- b) an official of any municipality or municipal entity;
- c) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- d) a member of the accounting authority of any national or provincial public entity; or
- e) an employee of Parliament or a provincial legislature;

**“long term contract”** means a contract with a duration period exceeding one year;

**“list of accredited prospective providers”** means the list of accredited prospective providers which the Newcastle Municipality must keep in terms of paragraph 21 of this SCM policy;

**‘Member’** means a person appointed by the accounting officer/authority to a bid evaluation panel, either as the chairperson, or as an ordinary member or secretariat, for purposes of conducting the evaluation of either transaction advisor bids or PPP bids as a representative of the institution

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

- a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- d) Preferential Procurement Regulations, 2017

**‘Privileged or confidential information’** means any information:

- a) determined by the institution to be privileged or confidential
- a) discussed in closed session by the bid evaluation panel
- b) which if disclosed would violate a person's right to privacy
- c) declared to be privileged, confidential or secret in terms of any law including, but not limited to, information contemplated in sections 34(1);35(1); 36(1); 37(1)(a); 38(a); 39(1)(a); 40 or 43(1) of the Promotion of Access to Information Act, 2000.

**“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

**“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

**“written or verbal quotations”** means quotations referred to in paragraph 19(1)(b) of this SCM Policy.

**“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of The Broad-Based Black Economic Empowerment Act;

**“B-BBEE status level of contributor”** means the B-BBEE status receive by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);



**“black designated groups”** has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“black people”** has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

**“co-operative”** means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);

**“designated group”** means-

- (a) black designated groups;
- (b) black people;
- (c) women;
- (d) people with disabilities; or
- e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

**“designated sector”** means a sector, sub-sector or industry or product in regulation 8(1)(a);

**“EME”** means an exempted micro enterprise in terms of a code of good practice on black empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“functionality”** means the ability of a tenderer to provide goods or services in accordance specifications as set out in the tender documents;

**military veteran**” has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

**“National Treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**people with disabilities”** has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

**“price”** includes all applicable taxes less all unconditional discounts;

**“proof of B-BBEE status level of contributor”** means-

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

**“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

**“rural area”** means-

- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

**“stipulated minimum threshold”** means the minimum threshold stipulated in terms of regulation 8(1)(b);

**“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

**“township”** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

**“treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

**“youth”** has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

**“Collusive Bidding/tendering”** occurs Collusive bidding/tendering (or bid rigging) occurs when business, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/ or services for purchasers who wish to acquire goods and /or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**“Irregular expenditure”** means Irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including the MFMA.

**“Preferential Procurement legislation”** The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and it's associated Preferential Procurement Regulations of 2017.

## 5. Abbreviations

Abbreviation	Description
B-BBEE	Broad-Based Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
CSD	Central Supply Database
MFMA	Municipal Finance Management Act
PO	Purchase Order

PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Framework Act
SCM	Supply chain management
TOR	Terms of Reference

## 6. Legislative Framework

This policy is underpinned by the following pieces of legislation:

- The Constitution of the RSA, Act 108 of 1996, as amended
- Municipal Finance Management Act, (Act No. 56 of 2003), as amended (MFMA)
- Municipal Supply Chain Regulations (MSCM)
- All National Treasury and KwaZulu-Natal Provincial Treasury Practice Notes, Circulars, letters and instruction notes issued from time to time
- The Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000
- The Preferential Procurement Regulations issued in 2017
- The Broad-based Black Economic Empowerment Act, the Strategy and the Codes of Good Practice
- Construction Industry Development Board Act No 38 of 2000 and its Regulations
- The Prevention and Combating of Corrupt Activities Act
- Promotion of Administrative Justice Act, Act No 3 of 2000
- Promotion of Access to Information Act, Act No 2 of 2000
- Protected Disclosures Act, Act No 26 of 2000
- The Competition Act, Act No 89 of 1998
- The King III Report on Corporate Governance for South Africa
- All other relevant acts, as well as the general legal environment within which contracts will be executed

**CHAPTER 1**  
**IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

**7. Supply chain management policy**

7.1 All officials and other role players in the supply chain management system of the Newcastle Municipality must implement this SCM Policy in a way that

(a) gives effect to –

(i) Section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

(i) the Regulations; and

(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) is consistent with other applicable legislation;

(e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

7.2. This SCM Policy applies when the Newcastle Municipality

(a) procures goods or services;

(b) disposes goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

7.3. This SCM Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

(b) electricity from Eskom or another public entity, another municipality or a municipal entity.

**8. Amendment of the supply chain management policy**

8.1. The accounting officer must –

(a) at least annually review the implementation of this SCM Policy; and

(b) when the accounting officer considers it necessary, submit proposals for the amendment of this SCM Policy to the Newcastle Municipal Council.

8.2. If the accounting officer submits proposed amendments to the Newcastle Municipal Council that differs from the model policy issued by the National Treasury, the accounting officer must

(a) ensure that such proposed amendments comply with the Regulations; and

(b) report any deviation from the model policy to the National Treasury and the KwaZulu-Natal Provincial Treasury.

- 8.3. When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

## **9. Delegation of supply chain management powers and duties**

- 9.1. The Newcastle Municipal Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) this Policy;
  - (b) to maximize administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- 9.2. Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- 9.3. The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the Newcastle Municipality or to a committee which is not exclusively composed of officials of the Newcastle Municipality;
- 9.4. This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 31 of this Policy.

## **10. Sub-delegations**

- 10.1. The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this SCM Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 9 of this SCM Policy.
- 10.2. The power to make a final award:
- (a) above R2 million (VAT included) may not be sub-delegated by the accounting officer;
  - (b) above R200 000 (VAT included), but not exceeding R2 million (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer and senior management are members.
- 10.3. The bid adjudication committee must within five (5) days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by The bid adjudication committee during that month, including:
- (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- 10.4. Paragraph 10.3 does not apply to procurements out of petty cash.

10.5. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 38 of this SCM Policy.

10.6. No supply chain management decision-making powers may be delegated to an advisor or consultant.

## **11. Responsibilities**

### **(a) Role of the Municipal Manager**

- (i) Ensures strict adherence to the guidelines provided in the SCM Policy.
- (ii) Implementation of the SCM Policy and submission of quarterly reports.
- (iii) Annual review of targets and the SCM Policy.
- (iv) Approves the inclusion of a service provider in the Municipality supply chain management system after rehabilitation of the service provider according to statutory requirements.
- (v) Appoints the members of the bid committees.

### **(b) Role of Directors**

Each director shall be responsible and accountable for:

- (i) exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this SCM Policy;
- (ii) implementing the SCM Policy and any procedural and other prescripts issued in terms of the SCM policy within his area of responsibility;
- (iii) ensuring compliance with the SCM Policy and any procedural and other prescripts issued in terms of the SCM policy within his area of responsibility;
- (iv) developing, or causing to be developed, draft specifications for the procurements by his directorate exceeding an amount of R 500 (VAT inclusive);
- (v) properly planning for and, as far as possible, accurately estimating the costs of the provision of services, works or goods for which offers are to be solicited;
- (vi) selecting the appropriate preference point goals to be utilised in the evaluation of offers;
- (vii) achieving any objectives and targets set with regard to procurements and disposals;

(c) The role of the Chief Financial Officer

- (i) Is the custodian of the SCM Policy and report on progress regarding its implementation.
- (ii) Has overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment.
- (iii) Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale.
- (iv) Ensures that procurements and disposals are effected through practices that demonstrate compliance to all relevant legislation.
- (v) Is responsible for managing procurements and disposals to ensure that the supply chain management system of the Municipality is adhered to.
- (vi) Ensures that the procurements and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives.
- (vii) Is responsible for ensuring that all employees involved in the supply chain management process receive the necessary training to support implementation of the SCM Policy.
- (viii) Is responsible for establishing the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality.
- (ix) Is responsible for the verification of the applications of service providers for possible inclusion in the Suppliers' Database.
- (x) Shall submit regular reports to the Accounting Officer, who will in turn submit to the Finance Portfolio Committee; regarding progress and any matters of importance relating to the SCM Policy.

(d) The role of Advisors

The Municipal Manager may procure the services of advisors to assist in the execution of the supply chain management function. These advisors must be obtained through a competitive bidding process. No advisor may however form part of the final decision-making process regarding the awarding of bids, as this will counter the principle of vesting accountability with the Municipal Manager. The Municipal Manager may not delegate decision-making authority to a person other than an official.

**12. Oversight role of council**

- 12.1. The Newcastle Municipal Council reserves its right to maintain oversight over the implementation of this SCM Policy.
- 12.2. For the purposes of such oversight the accounting officer must:
  - (a) within 30 days of the end of each financial year, submit a report on the implementation of this SCM Policy and the supply chain management policy of any municipal entity under sole or shared control of the municipality, to the council of the municipality; and
  - (b) whenever there are serious and material problems in the implementation of this SCM Policy, immediately submit a report to the Newcastle Municipal Council
- 12.3. The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Mayor of the Newcastle Municipality.
- 12.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.



**13. Supply Chain Management Unit**

13.1. A supply chain management unit is hereby established to implement this SCM Policy.

13.2. The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

**14. Training of supply chain management officials**

14.1. The training of officials involved in implementing this SCM Policy should be in accordance with any Treasury guidelines on supply chain management training.

**PART B**  
**SUPPLY CHAIN MANAGEMENT SYSTEM**

**15. Format of supply chain management system**

15.1. This SCM Policy provides systems for –

- (a) demand management;
- (b) acquisition management;
- (c) logistics management;
- (d) disposal management;
- (e) risk management; and
- (f) performance management.

Chapter 1: Demand management

**16. System of demand management**

16.1. The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by Newcastle Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

16.2 The demand management system must –

- (a) include timely planning and management processes to ensure that all goods and services required by the Newcastle Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
- (c) provide for the compilation of the required specifications to ensure that its needs are met.
- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

**17. Duties of Supply Chain Management Unit**

- (a) During consultations between the Supply Chain Management Unit and directors, all reasonable efforts shall be made to determine :
  - (i) the desired date and time at which a specific contract must be awarded;
  - (ii) the desired date and time when specific goods must be delivered, services rendered or work executed;
  - (iii) the place where any goods to be supplied shall be delivered;
  - (iv) the quantity and quality of any goods to be supplied; and

**18. System of acquisition management**

18.1. The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

- (a) that goods and services are procured by the Newcastle Municipality in accordance with authorized processes only;
- (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) that the threshold values for the different procurement processes are complied with;
- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- (e) that any Treasury guidelines and regulations on acquisition management are properly taken into account.

18.2. When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the Newcastle Municipality's supply chain management system, including -

- (a) the kind of goods or services; and
- (b) the name of the supplier.

**19. Range of procurement processes**

19.1. Goods and services may only be procured by way of –

- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
- (b) written or verbal quotations for procurements of a transaction value of R2 000 up to R10 000 (VAT included);
- (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- (d) a competitive bidding process for:
  - (i) procurements above a transaction value of R200 000 (VAT included); and
  - (ii) the procurement of long term (period) contracts.

19.2. The accounting officer may, in writing-

- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
- (b) direct that –
  - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

19.3. Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the SCM policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

#### 19.4. Approval authorities / delegations

- (a) The Supply Chain Management Policy must act in support of the Delegations Policy for approval authority for acquisitions in accordance with paragraphs 19.1, 19.2 and 19.3.

#### 20. General preconditions for consideration of written quotations or bids

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished that provider's –
  - (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any;
- (b) has authorized the Newcastle Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
  - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

#### 21. Lists of accredited prospective providers

##### 21.1. The accounting officer must –

- a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
- b) at least once a year, where applicable, through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- c) specify the listing criteria for accredited prospective providers (*refer to database form for listing criteria*); and
- d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

~~At 33 allow listing of prospective providers that are not registered with the National Treasury's central supplier database (CSD)~~

- 21.2. The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

#### 22. Petty cash purchases

- 22.1. The conditions for procurement of goods by means of petty cash referred to in paragraph 19 (1) (a) of this Policy, are as follows –

- (a) The Chief Financial Officer may, in writing, delegate the responsibility to monitor Petty Cash purchases to the Accountant: Revenue/Income Officer.
- (b) Goods and services may only be procured by way of petty cash, up to a transaction value of R500 (VAT included).
- (c) A maximum of five petty cash purchases per month will be allowed for each departmental section.
- (d) Total petty cash may not exceed R3 000.00 for each calendar month for the whole municipality.
- (e) Petty cash may only be used for the following types of expenditure: refreshments, catering, gifts, wheel repairs, and other small items.
- (f) a monthly reconciliation report from the Accountant Revenue must be submitted to the Chief Financial Officer, including –
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each purchase.

22.2 For the implementation of the petty cash purchases, refer to Newcastle Municipality Petty Cash Policy.

## 23. Written or verbal quotations

23.1. The conditions for the procurement of goods or services through written or verbal quotations are as follows:

(a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers on National Treasury's Central Supplier Database (CSD) and the Newcastle Municipality's list of accredited prospective providers provided that 3 quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 19(1)(b) and (c) of this SCM Policy.

- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

## 24. Formal written price quotations

24.1. The conditions for the procurement of goods or services through formal written price quotations are as follows:

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers on National Treasury's Central Supplier Database (CSD) and the Newcastle Municipality's list of accredited prospective providers.

- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 19(1)(b) and (c) of this SCM Policy;

- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
  - (d) the accounting officer must record the names of the potential providers and their written quotations.
- 24.2. A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

## **25. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations**

25.1. The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 23, be advertised for at least seven days on the website and an official notice board of the Newcastle Municipality.
- (c) quotations will only be accepted from providers whose names appear on the list of accredited prospective providers on National Treasury's Central Supplier Database (CSD) and/or the Newcastle Municipality's list of accredited prospective providers
- (d) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
  - (e) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
  - (f) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price; offers above R30 000 (VAT included), the accounting officer should apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations.
  - (g) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

## **26. Competitive bids**

- 26.1. Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 18(2) of this SCM Policy.

26.2. No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

26.3 Subcontracting as condition of bid;

(a) If a bidder is able to subcontract for a contract above R10 million, it should also endeavour to designate EMEs or QSEs.

(b) The bid should specify in the conditions of the bid that the bidder should subcontract the minimum of 40% of the value of the contract to

- i) an EME or QSE;
- ii) an EME or QSE which is at least 51% owned by black people;
- iii) an EME or QSE which is at least 51% owned by black people who are youth;
- iv) an EME or QSE which is at least 51% owned by black people who are woman;
- v) an EME or QSE which is at least 51% owned by black people who are disabilities;
- vi) an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;
- vii) a cooperative which is at least 51% owned by black people;
- viii) an EME or QSE which is at least 51% owned by black people who are military veterans or;
- ix) more than one of the categories referred to in paragraphs i) to viii)

(c) The Municipality must provide the list of suppliers registered on Newcastle Municipality Supplier database as well as National treasury database complying with paragraph (b) to the bidder for the bidder to select a supplier.

(d) The bidder may select more than one subcontractor to subcontract provided that the subcontracted value does not exceed 40% of the value of the contract.

26.4. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting

26.4.1. The Newcastle Municipality shall,

(a) determine and stipulate in the tender documents:

- (i) the preference point system applicable to the tender as envisaged in regulations 6 or 7; or
- (ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;

(b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;

(c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;

- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

#### 26.5. Pre-qualification criteria for preferential procurement

26.5.1 The Newcastle Municipality, where applicable, shall apply pre-qualifying criteria to advance certain designated groups, wherein the Newcastle Municipality shall advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) ~~a tenderer subcontracting a minimum of 40% to-~~
  - (i) an EME or QSE which is at least 51% owned by black people;
  - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
  - (iii) an EME or QSE which is at least 51% owned by black people who are women;
  - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (vi) a cooperative which is at least 51% owned by black people;
  - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
  - (viii) an EME or QSE

26.5.2 A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

#### 27. Process for competitive bidding

The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 29;
- (b) Public invitation of bids as detailed in paragraph 30;
- (c) Site meetings or briefing sessions as detailed in paragraph 30;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 31;
- (e) Evaluation of bids as detailed in paragraph 40;
- (f) Award of contracts as detailed in paragraph 41;
- (g) Administration of contracts
- (h) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (i) Proper record keeping
- (j) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes. All original contracts shall be deposited with the Accounting Officer within a week of signing the contract and a copy shall be kept in the departmental file while another copy shall be delivered to the SCM unit.



## **28. Bid documentation for competitive bids**

The criteria to which bid documentation for a competitive bidding process must comply, must –

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines and regulations on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish –
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

## **29. Public invitation for competitive bids**

29.1. The procedure for the invitation of competitive bids is as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Newcastle Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin and eTender Portal); and
- (b) the information contained in a public advertisement, must include –
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this SCM policy;

- (ii) a statement that bids may only be submitted on the bid documentation provided by the Newcastle Municipality; and date, time and venue of any proposed site meetings or briefing sessions.;
  - (iii) that bids may only be accepted from providers that are registered with the National Treasury's central data base and/or the list of accredited service providers of the Newcastle Municipality
- 29.2. The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- 29.3. Bids submitted must be sealed.
- 29.4. Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- 29.5. All competitive bids should be included on the eTender Portal as per circular 83.

**30. Procedure for handling, opening and recording of bids**

The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids–
  - (i) must be opened only in public;
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
  - (iii) bids received after the closing time should not be considered and returned unopened immediately and the reason as to why the bid cannot be considered.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

**31. Negotiations with preferred bidders**

- 31.1. The accounting officer or delegated official may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
  - (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- 31.2. Minutes of such negotiations must be kept for record purposes.

**32. Two-stage bidding process**

- 32.1. A two-stage bidding process is allowed for –
- (a) large complex projects;
  - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
  - (c) long-term projects with a duration period exceeding three years.
- 32.2. In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- 32.3. In the second stage final technical proposals and priced bids should be invited.

**33. Issuing of bid documentation**

- (a) Bid documents and any subsequent notices shall only be issued by the SCM Unit or authorized department.
- (b) A non-refundable bid charge, as required in the bid notice, may be raised by the Municipality for bid documents.
- (c) Details of all prospective bidders who have been issued with bid documents shall be recorded by the SCM Unit or authorized department. Such details shall include:
  - (i) the legal and full name of the person/company/closed corporation/firm drawing documents;
  - (ii) a contact person;
  - (iii) a contact telephone number;
  - (iv) a contact fax number;
  - (v) a postal address;
  - (vi) an e-mail address;
- d) Details recorded shall remain confidential for the duration of the bid period.

**34. Validity periods**

- (a) The period for which bids are to remain valid and binding shall be indicated in the bid documents. The period is calculated from the closing time and bids shall remain in force and binding until the end of the final day of the period.

- (b) This period of validity may be extended by mutual consent in writing between the Municipality and the bidder, provided that the original validity period has not expired, and that all bidders shall have an opportunity to extend such period.
- (c) If, in exceptional circumstances, it becomes necessary to extend the bid period, a notice shall be published in the press at least one week prior to the original bid closing date. This notice shall also be posted on the notice boards at designated Municipal offices, and a notice to all bidders of bids received at that stage to this effect shall be issued.

### **35. Bid Prices and Contract Periods for Engineering and Construction Contracts**

- (a) For all contract periods equal to or exceeding one year in duration, an appropriate contract price adjustment formula shall be specified in the bid documents.
- (b) In general, where contract periods do not exceed one year in duration, the bid shall be a fixed price bid (not subject to contract price adjustment). However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract will automatically be subject to contract price adjustment acceptable to both parties for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula shall be specified in the bid documents.
- (c) Notwithstanding the above arrangement, where the bid validity period is extended, then contract price adjustment may be applied.
- (d) An appropriate contract period must be specified for all engineering and construction contracts. The time for completion shall be stated in number of weeks.
- (e) In case where the price adjustment is gazetted by the Government, the price adjustment should be automatically applied regardless of the timeframe. The adjustment value should be in line with the gazetted adjustment.

### **36. Samples**

When samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered to the addressee mentioned in the bid documents by no later than the closing time of the bid. Bids shall not be included in parcels containing samples.

If samples are not submitted as requested, the bid concerned may be declared non responsive.

Samples shall be supplied by a bidder at his own expense and risk. The Municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

Where a bid is accepted for the supply of goods according to a sample submitted by the bidder, such sample shall become the contract sample. All goods/materials supplied shall comply in all respects to the contract sample.

### **37. Committee system for competitive bids**

- 37.1. A committee system for competitive bids is hereby established, consisting of the following committees for each procurement process or cluster of procurements as the accounting officer may determine:
- (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- 37.2. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- 37.3. A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- 37.4. The committee system must be consistent with –
- (a) paragraph 38, 39 and 40 of this SCM Policy; and
  - (b) any other applicable legislation.
- 37.5. The accounting officer may apply the committee system to formal written price quotations.
- 37.6. The following persons shall not be eligible to become members of a bid committee –
- (a) a councilor of any municipality; and
  - (b) a member of the Municipality's audit committee or performance audit committee.
  - (c) No councilor of any municipality may attend a meeting of a bid committee in any capacity, nor may a councilor make a presentation or representations to or conduct an interview with a bid committee in any capacity.
- 37.7. A bid committee established in terms of this chapter shall perform its functions, exercise its powers and discharge its duties independently and without fear, favor or prejudice.

## **38. Bid Specification Committee**

- 38.1. A bid specification committee must compile specifications for each procurement of goods or services by the Newcastle Municipality.
- 38.2. Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001, as amended; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 29 of this SCM Policy.

38.3. A Bid Specification Committee must be composed of one or more managers responsible for the function involved and may, when appropriate, include external specialist advisors.

38.4. No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

#### **39. Bid Evaluation Committee**

39.1. A bid evaluation committee must –

- (a) evaluate bids in accordance with –
  - (i) the specifications and conditions for a specific procurement; and
  - (ii) the points system set out in terms of paragraph 38(2)(f).
- (b) evaluate each bidder's ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and; the bidder submitted the required original tax clearance certificate and other clearance / registration forms as prescribed by various acts and / or in the bid documentation; and
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

39.2. A Bid Evaluation Committee must as far as possible be composed of-

- (a) Directors from departments requiring the goods or services.
- (b) At least one Supply Chain Management Practitioner of the Newcastle Municipality

#### **40. Bid Adjudication Committees**

40.1. A bid adjudication committee must –

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either –
  - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
  - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

- 40.2. A Bid Adjudication Committee must consists of at least four Strategic Executive Directors of the Newcastle Municipality-
- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and at least one senior supply chain management practitioner who is an official of the Newcastle Municipality; and
  - (b) a technical expert in the relevant field who is an official, if such an expert exists.
- 40.3. The Accounting Officer must appoint the Chairperson of the Bid Specification Committee, Bid Evaluation Committee and Bid Adjudication Committee If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- 40.4. Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee. Members of the Bid Evaluation Committee may present their recommendations / reports to the Bid Adjudication committee and clarify issues but shall not have any voting powers.
- 40.5. If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee,
- (a) the bid adjudication committee must prior to awarding the bid –
    - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
    - (ii) Notify the accounting officer.
  - b) The accounting officer may –
    - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
    - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 40.6. The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- 40.7. The accounting officer must comply with section 114 of the Act within 10 working days
- 40.8. Meetings of bid committees and decision-making
- (a) The chairperson of the relevant bid committee shall determine the date, time and venue of meetings of the committee concerned. At least three working days written notice shall be given of a meeting of a bid committee to all the members.
  - (b) A majority of the members of a bid committee must be present before the committee concerned may consider any matter.

- (c) Members of the committee can only be represented by another person who is acting or seconded to the meeting on his behalf for that day.
- (d) Decisions of a bid committee shall be taken by a majority of the members present at a meeting voting in favor of, or against, a question.
- (e) The Municipal Manager shall make appropriate arrangements to ensure that secretarial and such other administrative support services as may be required are provided to a bid committee.
- (f) Minutes shall be kept of each meeting of a bid committee. Such minutes shall :
  - (i) be considered and adopted, with or without amendments, as a true and accurate reflection of the proceedings at, and resolutions taken during a bid committee meeting, by the relevant committee at its first meeting next ensuing;
  - (ii) be signed by the person presiding at the meeting when they are approved; and
  - (iii) shall prima facie be evidence of the proceedings at a meeting of the relevant committee until the contrary is proven.
  - (iv) after approval be submitted to the SCM Unit, together with the tender documents concerned, for the calling of tenders or quotations where applicable.

#### **41. Procurement of banking services**

- 41.1. A contract for banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- 41.2. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 41.3. The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 30(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

#### **42. Procurement of IT related goods or services**

- 42.1. The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- 42.2. Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 42.3. The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or



- (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- 42.4. If SITA comments on the submission and the Newcastle Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the KwaZulu-Natal Provincial Treasury and the Auditor-General.

**43. Procurement of goods and services under contracts secured by other organs of state**

- 43.1. The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.
- 43.2. Subparagraphs (1)(c) and (d) do not apply if –
  - (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
  - (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

**44. Procurement of goods necessitating special safety arrangements**

- 44.1. The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- 44.2. Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

**45. Proudly SA Campaign**

- 45.2. The Newcastle Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
  - (a) Firstly – suppliers and businesses within the municipality or district;
  - (b) Secondly – suppliers and businesses within the relevant province;
  - (c) Thirdly – suppliers and businesses within the Republic.

**46. Appointment of consultants**

- 46.1. The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

- 46.2. Consultancy services must be procured through competitive bids if  
(a) the value of the contract exceeds R200 000 (VAT included); or  
(b) the duration period of the contract exceeds one year.
- 46.3. In addition to any requirements prescribed by this SCM policy for competitive bids, bidders must furnish particulars of –  
(a) all consultancy services provided to an organ of state in the last five years; and  
(b) any similar consultancy services provided to an organ of state in the last five years.
- 46.4. The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Newcastle Municipality.
- 46.5. The accounting officer must put measures in place to ensure that skills transfer does occur to avoid over reliance on consultants by the project managers.

#### **47 Deviation from, and ratification of minor breaches of, procurement processes**

- 47.1. The accounting officer may –  
(a) dispense with the official procurement processes established by this SCM Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –  
(i) in an emergency;  
(ii) if such goods or services are produced or available from a single provider only;  
(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;  
(iv) acquisition of animals for zoos and/or nature and game reserves; or  
(v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and  
(b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- 47.2. The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this SCM policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- 47.3. Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 18(2) of this SCM policy.

#### **48. Unsolicited bids**

- 48.1. In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 48.2. The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- 48.3. If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this SCM policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 48.4. The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the KwaZulu-Natal Provincial Treasury for comment.
- 48.5. The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- 48.6. A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 48.7. When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the KwaZulu-Natal Provincial Treasury.
- 48.8. If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the KwaZulu-Natal Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 48.9. Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Newcastle Municipality to the bid may be entered into or signed within 30 days of the submission.
- 49. Combating of abuse of supply chain management system**
- 49.1. The accounting officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this SCM Policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;

- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Newcastle Municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or any bidder who failed to produce a valid original tax clearance certificate issued by SARS to certify that the tax matters of a certain bidder are in order or necessary arrangements were made with SARS. or
    - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Newcastle Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the Newcastle Municipality or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
    - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 49.2. The accounting officer must inform the National Treasury and KwaZulu-Natal Provincial Treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this SCM policy.

### **Chapter 3: Logistics, Disposal, Risk and Performance Management**

#### **50. Logistics Management**

- 50.1. The accounting officer must establish and implement an effective system of logistics management, which must include -
- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
  - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
  - (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
  - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
- (h) The SCM Unit shall be responsible and accountable for the establishment, management and operation of store facilities for the Municipality, which shall consist of a main store and such satellite stores in other areas within the Municipality as may be necessary.
- (i) The Supply Chain Manager shall be responsible and accountable for:
  - (i) The day-to-day operation of the Municipality's store facilities;
  - (ii) Determining the range and nature of items that will be carried in the main store facility and satellite stores;
  - (iii) Setting of inventory levels;
  - (iv) Timely placement of orders when stock levels are low;
  - (v) Receiving and distribution of goods; and
  - (vi) Expediting orders.

## **51. Disposal management**

- 51.1. The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
  - (a) The Newcastle Municipal Council has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
  - (b) The Newcastle Municipal Council has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset to the Municipality.
  - (c) The accounting officer of the Newcastle Municipality shall have delegated authority to transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset not needed to provide the minimum level of basic municipal services, with a value of up to R1 000 000.
  - (d) The Newcastle Municipal Council shall authorize transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset not needed to provide the minimum level of basic municipal services, with a value of greater than R1 000 000 by resolution of a municipal council meeting open to the public.
- 51.2. Assets may be disposed of by –
  - (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

- (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) selling the asset; or
- (d) destroying the asset.

51.3. The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; as determined by council from time to time
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

## **52 Disposal and lease of municipal land**

- 52.1. The Newcastle Municipality has a core responsibility to acquire and avail land and buildings, in the first instance, for its own use for purposes of developing and maintaining municipal infrastructure, promoting service delivery and facilitating social and economic development and spatial integration. Future land requirements must be acknowledged and immovable property should be held in reserve for this purpose.
- 52.2. In acquiring, managing, developing and releasing land, the Newcastle Municipality must consider the best interests of the municipality (and thus its residents) rather than that of individuals when entering into real estate transactions. Maximum benefit should be given to the Municipality and thereby the community.
- 52.3. The Newcastle Municipality should act in the best interests of its citizens, and it therefore follows that the Newcastle Municipality will not singularly follow the historic processes and values of the market. Moreover, because the historic accumulation of land and property is highly varied, this must be acknowledged in terms of future transactions. Certain interventions may be necessary in land transactions pursued by the Newcastle Municipality as compared to those of the private land and property market. The private market is concerned with maximizing capital gain, as against the role of the municipality in acting in the best interests of its citizens.
- 52.4. The Newcastle Municipality must act in support of sectoral policies such as economic development, environment management, land use, housing, social and community infrastructure and culture and recreation.

52.5. Any land assets unrelated to these uses is deemed surplus.

52.6. Market forces shall be the point of departure in all transactions.

**53. Categories of Land**

The municipality's land assets are categorized as follows:

- (a) land intended for residential development
- (b) land intended for commercial and industrial purposes
- (c) land intended for social purposes including religious, education and institutional purposes
- (d) land intended to be developed for sport and recreation purposes
- (e) land intended for agricultural purposes

**54. Manner of disposal of various categories of land**

- (a) Land incapable of development in its own right within predominantly residential areas e.g. sanitary lanes and unutilized substation erven will be offered in ownership to the respective adjoining owners at market value. The purchaser will be liable for all costs of possible relocation of services, rezoning, survey, registration and transfer. The creation of a free standing lot will in each instance be the preference of Council in order that new residential opportunities are created.
- (b) Residential land capable of development in its own right shall be offered for sale by means of an invitation to bid or public auction subject to an upset price that is market related but taking into account historical individuals. Residential land intended for sale for the development and sale to the beneficiaries of a housing programme of the national or provincial government shall be offered for sale by private treaty at a price determined by council provided that the plight of the poor is taken into account.
- (c) Residential land that has been acquired for a capital project which has yet to commence and which is thus not immediately required by the municipality will be offered on a short term lease basis. The rental payable shall be market related unless determined otherwise by council. The property will be offered on private treaty at no cost to Council.
- (d) Commercial land that is incapable of development on its own right will be offered to the respective adjoining owners at market value. The purchaser will be responsible for all costs associated with the possible relocation of services, rezoning, survey, registration and transfer
- (e) Commercial and industrial land capable of development in its own right will be offered for sale by public competition (either by public auction or invitation to bid as the council may prefer from time to time. Sale of land will be subject to an upset value that is market related and such other conditions supporting the policies and programmes of the municipality.
- (f) Land located within an area of specific focus or which is subject to a specific development or social programme may be offered for sale or lease as the council may determine on a case by case basis through an invitation to bid. In such cases the maximization of returns will not necessarily be the determining factor and the aims of the municipality will be clearly articulated in the bid documentation. Land in this category may be allocated to take into account historically disadvantaged individuals.
- (g) Commercial and industrial land not immediately required for the municipality needs will be offered on a short term basis and the notice period will vary based on when the property will be

required. The rental will be at market related rates unless determined otherwise by council in the interest of the public.

- (h) Ownership of social sites shall be by means of an invitation to bid. Bidders will be subject to a screening process that will take into account amongst other things the community, the nature of the organization and its ability to discharge its intentions. The sale shall be subject to a predetermined market related price or as may be determined by council
- (i) Amateur sports bodies are those bodies that are providing sporting facilities. Land will be offered in an open bidding process on a leasehold basis and will preclude discrimination and will be subject to development clauses to ensure the discharge of intentions. The rental will be established on the basis of a nominal rental for the total land component on the lease as may be approved by the municipality. The lessee will be liable for rates and services consumed as prescribed by the Newcastle Municipality's tariff of charges.
- (j) Land for professional sport
  - (i) in instances where there is commercial benefit to be derived by the owner or shareholders of a club a differentiation will be made from those agreement for amateur sport in terms of rental payable
  - (ii) land for rental will be at its full economic value or a percentage of all financial turnover and such percentage will be determined by the Municipality from time to time. The contribution the sport makes to the economic development will be taken into consideration in determining such percentage.
  - (iii) the sporting organization's liability to rates shall be in accordance with the rates policy.

(k) Land for agricultural purposes

Agricultural land shall be offered for sale by means of an invitation to bid, subject to an upset price that is market related and will take into consideration the historical disadvantaged. The land shall be leased to community groups on a case by case basis taking into consideration the municipal social programmers and the historically disadvantaged.

**55. Unsolicited proposals for land**

The municipality will follow the following procedure for unsolicited proposals for land development

- (a) proposals received will be evaluated by the municipality.
- (b) realistic propositions will be advertised in the media to solicit competitive proposals or objections from the public.
- (c) if a response is received from the public, a competitive
- (d) will be called for by means of an invitation to bid.
- (e) the sale will be by way of market value unless the development is in the plight of the poor in which case the council determines to price land on a case by case basis.

**56. Contracts providing for compensation based on turnover**

If a service provider acts on behalf of the Newcastle Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider



is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Newcastle Municipality must stipulate –

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

## **57. Risk management**

57.1. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

57.2. Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

## **58. Performance management**

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this SCM Policy were achieved.

## **59. Contract Management**

59.1. Service Level Agreements

- (a) Contracts concluded for the procurement of goods and services should be made subject to the conclusion of a service level agreement.
- (b) It is the responsibility of each directorate concerned to ensure that a valid and legally binding contract is entered into between the municipality and the successful bidder in line with the bid specifications, after approval of the bid as mentioned above.
- (c) In the event that a suitable contract has not been included in the bid documentation, a copy of the approval and all relevant documentation must be provided to Legal Services timely for the drafting of a suitable contract.
- (d) After signing of the contract by the parties, the directorate concerned must ensure that copies are made available to all role players including the Supply Chain Management Unit. The originally signed copy must be filed at the main records who will act as custodian of all procurement contracts of the municipality.
- (e) The directorate concerned is responsible, in consultation with the Supply Chain Management Unit and Legal Services, to ensure that service providers comply with the provisions of the

contract, and in the event of a possible breach of contract or proposed amendment to the contract, to submit a report in this regard to the Municipal Manager.

- (f) In case where a panel of service providers are appointed with the similar scope of works, it is the responsibility of the user-department, for which the contract was procured, to ensure that the appointed service providers are fairly rotated in a transparent manner and such rotation must be done in consultation with the Supply Chain Management Unit.

#### 59.2. Extension/Expansion of contracts

The Accounting Officer must as far as possible refrain from extending/expanding contracts and for allowing a variation orders as this increases risk, reflects possible flaws in planning and creates an uncompetitive environment that may possibly unfairly prejudice other possible vendors. Extensions should only be granted if it makes economic sense and provided that it can be justified in terms of fairness, equitableness, transparency, competitiveness and cost effectiveness.

#### 60. Remedies in case of death, sequestration, liquidation or judicial management

- (a) In the event of the death of a contractor or the provision of or final sequestration of his or her estate or of his or her cession or transfer of contract without the approval of the Newcastle Municipality or of the surrender of his or her estate or his or her reaching a compromise with his or her creditors or of the provisional of final liquidation of a contractor's company or placing of its affairs under judicial management, the council must without prejudice to any rights it may have, exercise any of the following:
  - (i) Cancel the contract and accept any of the bids which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved from liability for any claim which has arisen or may arise against the contractor in respect of supplies not delivered or work not carried out under the contract, and the Newcastle Municipality shall have the right to hold and retain all or any of the securities and retention moneys held by it at the date of the aforementioned occurrences until such claim has been satisfied or
  - (ii) Allow the executor, trustee, liquidator or judicial manager as the case may be for and on behalf of and at the expense and cost of the estate of the contractor to carry on and complete the contract.
- (b) In the event of the contract being cancelled by the municipality in the exercise of its rights in terms of these conditions, the contractor should be liable to pay council any losses sustained and or additional costs or expenditure incurred as a result of such cancellation and Council should have the right to recover such losses, damages or additional costs by means of set off from moneys due or which may become due in terms of the contract or any other contract or from a guarantee provided for the due fulfillment of the contract and until such time as the moneys or guarantee as security have been determined for any loss which the Council may suffer or have suffered. The contractor must be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise in the supply or service rendered.

- (c) Transfer of contract

The contractor must not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the Council.

**61. Penalties**

- 61.1. Where a contract has been awarded on the strength of preference point information furnished by the contractor, which after the conclusion of the relevant contract is proved to have been incorrect, the Municipality may in addition to any other legal remedy it may have to recover from the contractor all costs, losses or damages incurred or sustained by the municipality as a result of the award of the contract and /or
- (a) cancel the contract and claim damages which the municipality may suffer as a result of having to make less favourable arrangements and /or
  - (b) impose on the contractor a penalty not exceeding 5% of the value of the contract

## Chapter 4: Other Matters

### 62. Prohibition on awards to persons whose tax matters are not in order

- (a) No award may be made in terms of this SCM Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (b) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (c) If SARS does not respond within 7 days such person's tax matters may, for purposes of subparagraph 63(a), be presumed not to be in order.

### 63. Prohibition on awards to persons in the service of the state

Irrespective of the procurement process followed, no award may be made to a person in terms of this SCM Policy –

- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with the Newcastle Municipality.

### 64. Awards to close family members of persons in the service of the state

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

### 65. Ethical standards

65.1. A code of ethical standards is hereby established for officials and other role players in the supply chain management system of the Newcastle Municipality in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

65.2. Code of conduct

65.2.1. Supply Chain Management Practitioners and all other role players involved in Supply Chain Management are:

- (a) to act at all times with fidelity, honesty, integrity and in the best interests of the Newcastle Municipality and the general public it serves
- (b) to diligently perform the duties of a member efficiently, effectively and strictly in accordance with the rules of bidding and bid evaluation, as set out in the bid documentation and according to all relevant instructions given by the institution

- (c) to properly prepare for and attend each meeting of the bid committees applicable, and failing this to withdraw as a member
- (d) to act at all times in accordance with the relevant legislation and regulations,
- (e) specifically, to comply with the *Code of Conduct for the Municipalities*.
- (f) to recognise the public's right to access to information in the interests of administrative justice
- (g) to take the utmost care in ensuring that there is reasonable protection of the records of the institution and all bid documentation
- (h) not to misuse the position or privileges of a member, or privileged or confidential information obtained as a member
- (i) to carry out duties with the skill and care expected from a person of knowledge and experience, and to exercise due judgment
- (j) not to unfairly discriminate against any bidder on the grounds of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language
- (k) not to abuse any position in the public services to promote or prejudice the interest of any political party or interest group
- (l) to give the Auditor-General all the information and explanations it requires to carry out its functions
- (m) to report to the appropriate authorities any case of fraud, corruption, nepotism, mal-administration and any other acts which constitute an offence or which are prejudicial to the public interest, arising during the bid evaluation panel proceedings
- (n) to declare, diligently, accurately and honestly, in the declaration of interest, all personal and/or business interests that I or a family member may have in any business of any bidder, and to willingly abide by any decision of the chairperson of the bid evaluation panel or the accounting officer/authority to withdraw as a member of the panel because of this.
- (o) to be open and honest about all decisions and actions taken regarding the bid evaluation, and to give clear reasons for these, which can be accurately recorded.
- (p) not to make any dishonest allegations about any bidder
- (q) not to make any false or misleading entries into the records of the bid evaluation panel
- (r) to make no contractual commitments related to the bid, to any bidding party, on behalf of the institution.

- (s) to proactively protect privileged or confidential information of the bid evaluation panel from theft, unauthorized disclosure or inappropriate use, and specifically:
  - (i) not respond to any queries relating to the bid evaluation on behalf of the institution, unless expressly authorised in writing by the accounting officer/authority to do so.
  - (ii) not to speak to or correspond carelessly with any person (fellow member, colleague, friend, family member or otherwise) on any matter related to the bid evaluation
- t) not to use his position for private gain or to improperly benefit another person, not to request, solicit or accept any reward, gift or favor in return for voting or not voting in a particular way on any matter, or for disclosing privileged or confidential information.
- u) not to accept or agree to later accept, any 'kickbacks' in the form of money, favours, inappropriate gifts or anything else of value from a member of the public, government, a political or social movement, or any stakeholder or potential stakeholder which is or may be viewed as aimed at influencing or directing the evaluation of the bids.
- v) to disclose immediately to the chairperson or the accounting officer/authority any attempted inducement or offers of perks that may be construed as aimed at influencing or directing the evaluation of the bids
- w) to report to the chairperson of the panel any invitations to any kind of entertainment by any party that may be construed as being associated in any way with the outcome of the bid evaluation
- x) to not vote at, attend or participate in any other way in any meeting or hearing in relation to any matter before the bid evaluation panel, if any interest prevents me from carrying out my member functions in a fair, unbiased and proper way in accordance with this code of conduct.

65.2.2 A breach of the code of ethics must be dealt with as follows –

- (a) in the case of an employee, in terms of the disciplinary procedures of the Newcastle Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

## **66. Inducements, rewards, gifts and favors to municipalities, officials and other role players**

- 66.1
- a) no person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
  - b) any inducement or reward to the Newcastle Municipality for or in connection with the award of a contract; or
  - c) any reward, gift, favor or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this SCM Policy.
  - d) all declarations must be recorded in a register which the accounting officer must keep.

66.2. The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

66.3. Subparagraph (1) does not apply to gifts less than R350.00 in value.

**67. Sponsorships**

The accounting officer must promptly disclose to the National Treasury and the KwaZulu-Natal Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

**68. Objections and complaints**

68.1 Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action –

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, refer the written objection or complaint to the independent and impartial person referred to in paragraph 68.2 for resolution or
- (b) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 68.3

68.2 Resolution of objections and complaints against procurement process

(a) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding –

- (i) the implementation of the procurement process in terms of the supply chain management system; or
- (ii) any matter arising from the implementation of the procurement process in terms of the supply chain management system.

(b) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(c) The person appointed must –

- (i) strive to resolve promptly all objections and complaints received; and

(ii) submit reports to the accounting officer on all such objections and complaints received, attended to or resolved.

(d) If the independent and impartial person, is of the view that a matter which should be dealt with in terms of paragraph 68.3, he or she shall forthwith refer the matter to the Municipal Bid Tribunals and that Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 68.3.

(e) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:

(i) the objection or complaint is not resolved within 60 days; or

(ii) no response is forthcoming within 60 days.

(f) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

#### 68.3. Municipal Bid Appeals Tribunal

(a) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.

(b) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.

(c) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.

(d) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 68(3)(c)

(e) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

## Chapter 5: Preferential Procurement Management

### 69. Preferential Procurement Management



Offers for the procurement of goods and services shall be in line with the applicable procurement legislation, namely the Preferential Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003). Offers for the procurement of goods and services shall be adjudicated on the following criteria:

69.1. Evaluation of bids on functionality

- (a) The Newcastle Municipality shall indicate on the invitation to submit a bid if a bid shall be evaluated on functionality.
- (b) The evaluation criteria for measuring functionality shall be objective.
- (c) Where bids are evaluated on functionality, the following shall be clearly specified in the invitation to submit a bid –
  - (i) The evaluation criteria for measuring functionality
  - (ii) The weight of each criterion
  - (iii) The applicable value; and
  - (iv) The minimum qualifying score for functionality
- (d) No bid shall be regarded as an acceptable bid if it fails to achieve a minimum score for functionality as indicated in the bid invitation.
- (e) Bidders that have achieved the minimum qualifying score for functionality shall be evaluated further for preference point systems prescribed in paragraphs 69.2 and 69.3 of this SCM Policy.

69.2. The 80/20 Preferential Point System

- (a) The following formula shall be used to calculate preference points in respect of bids (including price quotations) with a Rand value equal to, or above R 30 000 up to a Rand value of R 50 000 000 (all applicable taxes included):

$$Ps = \frac{80(1 - Pt - P_{min})}{P_{min}}$$

Where

- Ps = Points scored for price of bid or offer under consideration.
- Pt = Price of tender under consideration.
- P min = Price of lowest acceptable tender

The Newcastle Municipality may apply the formula in paragraph a) for quotations with a value less than R30 000, if and when appropriate.

- (b) Subject to sub-paragraph 69.2(c) points shall be awarded to a bidder attaining the B-BBEE status level contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
------------------------------------	------------------

1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

(c) A maximum 20 points shall be allocated in accordance with sub-paragraph 69.2(b) of this SCM policy.

(d) The points scored by the bidder in respect of B-BBEE contribution contemplated in sub-paragraph 69.2 (b) shall be added to the points scored for price as calculated in sub-paragraph 69.2 (a) of this SCM policy.

(e) Subject to sub-paragraph 69.4 of this SCM policy the contract shall be awarded to a bidder who scores the highest number of points.

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

### 69.3. The 90/10 Preferential Point System

(a) The following formula shall be used to calculate preference points in respect of bids with a Rand value above of R50 000 000 (all applicable taxes included):

$$P_s = \frac{90(1 - P_t - P_{\min})}{P_{\min}}$$

Where

- Ps = Points scored for price of tender under consideration.  
 Pt = Price of tender under consideration.  
 P min = Price of lowest acceptable tender.

- (b) Subject to sub-paragraph 69.3(c) points shall be awarded to a bidder attaining the B-BBEE status level contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (c) A maximum 10 points shall be allocated in accordance with sub-paragraph 69.3(b) of this SCM policy.

- (d) The points scored by the bidder in respect of B-BBEE contribution contemplated in sub-paragraph 69.3(b) shall be added to the points scored for price as calculated in sub-paragraph 69.3(a) of this SCM policy.

- (e) Subject to sub-paragraph 69.4 of this SCM policy the contract shall be awarded to a bidder who scores the highest number of points.

- 69.4. A contract may be awarded to a bidder that did not score the highest total number of points, only in accordance with section 2(1) (f) of the Preferential Procurement Policy Framework Act, 5 of 2000.

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.

- (b) The organs of state may-

- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
- (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

## **70. Cancellation and Re-invitation of Bids**

### **70.1. In the application of the 80/20 preference point system**

- (a) in the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R 1 000,000, the bid invitation shall be cancelled.
- (b) If one or more acceptable bids received are within the prescribed threshold of R1 000 000, all bids received must be evaluated on the 80/20 preference point systems.

### **70.2. In the application of the 90/10 preference point system**

- (a) in the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below the estimated Rand value of R 1 000,000, the bid invitation shall be cancelled.
- (b) If one or more acceptable bids received are above the prescribed threshold of R1 000 000, all bids received must be evaluated on the 90/10 preference point systems.

70.3. The Newcastle Municipality shall, after cancellation of a bid invitation as contemplated in sub-paragraphs 70.1 (a) and 70.2(a), re-invite bidders and shall, in the bid documents stipulate the correct preference point system to be applied.

70.4. The Newcastle Municipality shall, prior to the award of a bid, cancel a bid if –

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable bids are received

## **71. Preference Point System for Disposals**

### **71.1. Formula**

- (a) The following formula must be used to calculate the points for price in respect of competitive bids for disposals :
  - (i) equal to or above R 30 000 up to a value of R 50 000, 000:

$$Ps = \frac{80(Pt - Ph)}{Ph}$$

Where –

Ps = Points scored for comparative price of bid or offer under consideration

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid or offer

(ii) with a value above R 50 000,000:

$$Ps = 90 \frac{(1 + Pt - Ph)}{Ph}$$

Where –

Ps = Points scored for comparative price of bid / offer under consideration

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid / offer

- (b) A maximum of 10 or 20 points, as the case may be, may be awarded to a bidder for B-BBEE status level of contribution.
- (c) The points scored by a bidder in respect of B-BBEE status level contribution must be added to the points scored for price.
- (d) Only the bid with the highest number of points scored may be selected.

#### 71.2 Conditions

- (a) Only a bidder who has completed and signed the declaration part of the bid documentation shall be considered.
- (b) The Newcastle Municipality shall, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- (c) The Newcastle Municipality shall, when effecting payment, implement a discount which has been offered conditionally despite it being not taken into account for evaluation purposes.
- (d) A trust, consortium or joint venture shall qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits B-BBEE status level certificate
- (e) A person shall not be awarded points for B-BBEE status level if it indicated in the bid documents that such a bidder intends subcontracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- (f) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- (g) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of contract is reduced to below the stipulated minimum threshold.

#### 71.3. Declarations

A bidder must, in the manner stipulated in the bid document, declare that:

- (a) The information provided regarding any claim of points for B-BBEE status level is true and correct;

- (b) the signatory to the bid document is duly authorised; and
- (c) documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Newcastle Municipality.

#### 71.4. Remedies

Where a contract has been awarded on the strength of B-BBEE status level of contribution furnished by the bidder or contractor which, after the conclusion of the relevant contract, is proved to have been claimed or obtained on a fraudulent basis, the Newcastle Municipality may, in addition to any other legal remedy it may have:

- a) disqualify the person from the bidding process
- b) recover from the contractor all costs, losses or damages incurred or sustained by the municipality as a result of that contractor's conduct;
- c) cancel the contract and claim damages which the municipality may suffer as a result of having to make less favourable arrangements due to such cancellation;
- d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders or directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* rule has been applied; and
- e) forward the matter for criminal prosecution

#### 72. Local Production and Content

72.1. The bidding conditions may stipulate a minimum threshold of local production and content, as contemplated in regulation 9 of Preferential Procurement Regulations, GNR 502 dated 8 June 2011, where for such bids locally produced goods. Services or works or locally manufactured goods are of critical importance.

72.2. Every bid issued in terms of sub-paragraph 73.1 must be measurable and audited.

#### 73. Variation order

73.1 Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

73.2 Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

73.3 The contents of the above paragraph are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and, specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

## PART C



THE NEWCASTLE  
**MUNICIPALITY**  
NEWCASTLE KWAZULU-NATAL

### **Supply Chain Management Policy for Infrastructure Procurement and Delivery Management**

Adopted on xx May 2018

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## 1 Scope

This policy establishes the Newcastle Municipality's policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

- a) the storage of goods and equipment following their delivery to Newcastle Municipality which are stored and issued to contractors or to employees;
- b) the disposal or letting of land;
- c) the conclusion of any form of land availability agreement;
- d) the leasing or rental of moveable assets; and
- e) public private partnerships.

## 2 Terms, definitions and abbreviations

### 2.1 Terms and definitions

For the purposes of this document, the definitions and terms given in the standard and the following apply:

**agent:** person or organization that is not an employee of Newcastle Municipality that acts on **its** behalf in the application of this document

**authorised person:** the municipal manager or chief executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

**conflict of interest:** any situation in which:

- a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,
- b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or
- c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

**contract manager:** person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view

**family member:** a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

**framework agreement:** an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

**gate:** a control point at the end of a process where a decision is required before proceeding to the next process or activity

**gateway review:** an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based

**gratification:** an inducement to perform an improper act

**infrastructure delivery:** the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**infrastructure procurement:** the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**maintenance:** the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

**operation:** combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

**order:** an instruction to provide goods, services or any combination thereof under a framework agreement

**organ of state:** an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

**procurement document:** documentation used to initiate or conclude (or both) a contract or the issuing of an order

**principal:** a natural person who is a partner in a partnership, a sole proprietor, a Strategic Executive Director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

**standard:** the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

**working day:** any day of a week on which is not a Sunday, Saturday or public holiday

## **2.2 Abbreviations**

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

## **3 General requirements**

### **3.1 Delegations**

**3.1.1** The **Council of Newcastle Municipality** hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager to:

- a) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 or 10 of the Local Government Municipal Finance Management Act of 2003 and this document;
- b) maximise administrative and operational efficiency in the implementation of this document;
- c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this document; and

- d) comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

**3.1.2** No departure shall be made from the provisions of this policy without the approval of the Municipal Manager of Newcastle Municipality

**3.1.3** The Municipal Manager shall for oversight purposes:

- a) within 30 days of the end of each financial year, submit a report on the implementation of this the policy and the equivalent policy of any municipal entity under the sole or shared control of the Newcastle Municipality, to the council of the Newcastle Municipality<sup>3</sup> / within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of Strategic Executive Directors, who must then submit the report to the municipal manager of Newcastle Municipality for submission to the council;
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the Council, who must then submit the report to the municipal manager of Newcastle Municipality for submission to the council;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the Mayor; and
- d) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

### **3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management**

**3.2.1** Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.<sup>5</sup>

### **3.3 Supervision of the infrastructure delivery management unit**

The Infrastructure Delivery Management Unit shall be directly supervised by the Chief Financial Officer

### **3.4 Objections and complaints**

Persons aggrieved by decisions or actions taken in the implementation of this policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

### **3.5 Resolution of disputes, objections, complaints and queries**

**3.5.1** The Municipal Manager shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the Newcastle Municipality and other persons regarding:

- a) any decisions or actions taken in the implementation of the supply chain management system;
- b) any matter arising from a contract awarded within the Newcastle Municipality's infrastructure delivery management system; or
- c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

**3.5.2** The Municipal Manager or Designated Person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

**3.5.3** The person appointed in terms of 3.5.1 shall:

- a) strive to resolve promptly all disputes, objections, complaints or queries received; and
- b) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.

**3.5.4** A dispute, objection, complaint or query may be referred to the Western Cape Provincial Treasury if:

- a) the dispute, objection, complaint or query is not resolved within 60 days; or
- b) no response is forthcoming within 60 days.

**3.5.5** If the Western Cape Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

#### **4 Control framework for infrastructure delivery management**

##### **4.1 Assignment of responsibilities for approving or accepting end of stage deliverables**

The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

##### **4.2 Gateway reviews**

###### **4.2.1 Gateway reviews for major capital projects above a threshold**

**4.2.1.1 Municipal Manager** shall appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

**Table 1: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery**

Stage		Person/Body assigned the responsibility for approving or accepting end of stage deliverables	Output	Project Value
No	Name			
0	Project initiation	<i>Council</i> accepts the initiation report	<i>Approved IDP</i>	<i>Above R200 000</i>
1	Infrastructure planning	<i>Strategic Executive Director: Technical Services</i> approves the infrastructure plan	<i>Approved Budget</i>	<i>Above R200 000</i>
2	Strategic resourcing	<i>Strategic Executive Director: Technical Services</i> approves the delivery and / or procurement strategy		<i>Above R200 000</i>

3	Pre-feasibility		[Strategic Executive Director: Technical Services accepts the pre-feasibility report		Above R200 000
	Preparation and briefing		[Strategic Executive Director: Technical Services accepts the strategic brief		Above R200 000
4	Feasibility		Strategic Executive Director: Technical Services accepts the feasibility report		Above R200 000
	Concept and viability		Strategic Executive Director: Technical Services accepts the concept report		Above R200 000
5	Design development		Strategic Executive Director: Technical Services development report	Designs	Above R200 000
6	Design documentation	6A Production information	Strategic Executive Director: accepts the parts of the Technical Services which are identified when the design development report is accepted as requiring acceptance	Designs	Above R200 000
		6B Manufacture, fabrication and construction information	The contract manager accepts the manufacture, fabrication and construction information	Designs	Above R200 000

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables	Output	Project Value
No	Name			
7	Works	The contract manager certifies completion of the works or the delivery of goods and associated services		Above R200 000
8	Handover	The owner or end user accepts liability for the works		Above R200 000
9	Package completion	The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract manager certifies final completion in accordance with the provisions of the contract <i>[Strategic Executive Director: Technical Services]</i> accepts the close out report		Above R200 000

## 5 Control framework for infrastructure procurement

5.1 The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table 2.

5.2 The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows:

- a) Bid Documentation Committee shall grant approval for the issuing of the procurement documents, based on the, contents of a documentation review report developed in accordance with the provisions of the standard;
- b) the Bid Adjudication Committee may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard or alternatively make a recommendation to the Municipal Manager to award if the value exceeds R10 million.

5.3 The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table 3.

## 6 Infrastructure delivery management requirements

### 6.1 Institutional arrangements

#### 6.1.1 Committee system for procurement

##### 6.1.1.1 General

6.1.1.1.1 A committee system comprising the Bid Specification committee, Bid evaluation committee and Bid Adjudication committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds R200 000 and to the putting in place of framework agreements.

**6.1.1.1.2** The Bid evaluation committee shall, where competition for the issuing of an order amongst framework contractors takes place and the value of the order exceeds the financial threshold for quotations, evaluate the quotations received.

**6.1.1.1.3** The persons appoint in writing as technical advisors and subject matter experts may attend any committee meeting.

**6.1.1.1.4** No person who is a political officer bearer, a public office bearer including any councillor of a municipality, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a Bid specification, Bid evaluation or Bid Adjudication committee.

**6.1.1.1.5** Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterised by the lack of sustained opposition to substantial issues. Committees shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.

**6.1.1.1.6** Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

#### **6.1.1.2 Bid Specification committee**

**6.1.1.2.1** The Municipal Manager shall appoint in writing a standing committee to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard.

**6.1.1.2.2** The Bid specification committee shall comprise of a Chairperson, Vice Chairperson and three (3) members of which one (1) is the responsible official and one (1) is a SCM official. The chairperson shall be an employee of Newcastle Municipality with requisite skills.

**6.1.1.2.3** No member of, or technical adviser or subject matter expert who participates in the work of the Bid specification committee or a family member or associate of such a member, may tender for any work associated with the tender which is considered by these committees.

Table 2: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold

Activity		Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1*	Establish what is to be procured	1.3 PG1	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	Strategic Executive Director: Technical Services
2*	Decide on procurement strategy	2.5 PG2	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	Strategic Executive Director: Technical Services
3	Solicit tender offers	3.2 PG3	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Bid specification Committee
		3.3 PG4	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	Strategic Executive Director: Financial Services/Manager: Budgets
	Evaluate	4.2 PG5	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	Strategic Executive Director: Technical Services



4	tender offers	4.7 PG6	Confirm recommendations contained in the tender evaluation report	Review recommendations of the bid evaluation committee and refer back to bid evaluation committee for reconsideration or make recommendation for award	Bid Adjudication committee
5	Award contract	5.3 PG7	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	<i>[authorised person]</i> Accounting Officer
		5.5 GF1	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	<i>[designated person]</i> SCM

\* Applies only to goods and services not addressed in a procurement strategy developed during stage 2 (strategic resourcing) of the control framework for infrastructure delivery management

Table 2 (concluded)

Activity		Sub-Activity		Key action	Person assigned responsibility to perform key action
6	Administer contracts and confirm compliance with requirements	6.4 PG8A	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	[Strategic Executive Director: Technical Services]
		6.5 PG8B	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	Manager: Legal Services
		6.6 PG8C	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage <sup>21</sup>	Approve amount of time and cost overruns up to the threshold	[Project Management Unit Manager]
		6.7 PG8D	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20% and 30%, respectively	Approve amount of time and cost overruns above a the threshold	[municipal manager or chief executive or, depending upon the value, a appropriately delegated authority ]

		6.8 PG8E	Obtain approval to cancel or terminate a contract	Approve amount	[Strategic Executive Director: Technical Services]
		6.9 PG8F	Obtain approval to amend a contract	Approve proposed amendment to contract	[Strategic Executive Director: Technical Services]

**Table 3: Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework agreement**

Activity		Key action	Person assigned responsibility to perform key action
1 FG1	Confirm justifiable reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	<i>Accounting Officer or designated official</i>
3 FG2	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	<i>Accounting Officer or designated official</i>
4 FG3	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	<i>[designated person e.g. programme manager or financial Strategic Executive Director]</i>
6 FG4	Authorise the issuing of the order	If applicable, review evaluation report and confirm or reject recommendations. Formally accept the offer in writing and issue the contractor with a signed copy of the order	<i>CFO or designated official</i>



### **6.1.1.3 Bid Evaluation committee**

**6.1.1.3.1** The Municipal Manager shall appoint in writing:

- a) the persons to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clauses 4.2.3.2 and 4.2.3.4 of the standard, respectively; and
- b) the members of the evaluation committee.

**6.1.1.3.2** The bid evaluation committee shall comprise of a Chairperson, Vice Chairperson and three (3) members of which one (1) is the responsible official and one (1) is a SCM official. The chairperson shall be an employee of Newcastle Municipality with requisite skills.

**6.1.1.3.3** The evaluation committee shall review the evaluation reports prepared in accordance with sub clause 4.2.3 of the standard and as a minimum verify the following in respect of the recommended tenderer:

- a) the capability and capacity of a tenderer to perform the contract;
- b) the tenderer's tax and municipal rates and taxes compliance status;
- c) confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;
- d) the Compulsory Declaration has been completed; and
- e) the tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.

**6.1.1.3.4** No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the Bid documentation committee or a family member or associate of such a member, may be considered by the evaluation committee.

**6.1.1.3.5** The chairperson of the evaluation committee shall promptly notify the Municipal Manager of any respondent or tenderer who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.

### **6.1.1.4 Bid Adjudication Committee**

**6.1.1.4.1** The Bid Adjudication committee shall comprise the following persons or their mandated delegate:

- a) the Chief Financial Officer;
- b) Vice chairperson (manager in the budget and treasury office reporting directly to the CFO)
- c) At least one senior SCM practitioner who is an official of the Municipality;
- d) 2 x officials in top management positions employed by Newcastle Municipality
- e) Secretary (official from the SCMU with no voting rights);

**6.1.1.4.2** No member of the bid evaluation committee may serve on the bid adjudication committee. A member of the bid evaluation committee may, however, participate in the deliberations of the bid adjudication committee as a technical advisor or a subject matter expert.

**6.1.1.4.3** The bid adjudication committee shall:

- a) consider the report and recommendations of the bid evaluation committee and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
  - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) refer the report back to the bid evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

**6.1.1.4.4** The bid adjudication committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

**6.1.1.4.5** The bid adjudication committee shall consider the merits of an unsolicited offer and make a recommendation to the municipal manager.

**6.1.1.4.6** The bid adjudication committee shall report to the municipal manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.

**6.1.1.4.7** The bid adjudication committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

- a) made a misrepresentation or submitted false documents in competing for the contract or order; or
- b) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

**6.1.1.4.8** The bid adjudication committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its Strategic Executive Directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper Conduct in relation to such system. The National Treasury and the Provincial Treasury shall be informed where such tenderers are disregarded.

## **6.1.2 Actions of an authorised person relating to the award of a contract or an order**

### **6.1.2.1 Award of a contract**

**6.1.2.1** The municipal manager shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the bid adjudication committee and either:

- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or

- b) decide not to proceed or to start afresh with the process.

**6.1.2.2** The municipal manager shall immediately notify the bid adjudication committee if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and Western Cape Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

#### **6.1.2.3 Issuing of an order**

The authorised person shall, if the value of an order issued in terms of a framework contract, is within his relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or
- b) decide not to proceed or to start afresh with the process.

### **6.1.3 Conduct of those engaged in infrastructure delivery**

#### **6.1.3.1 General requirements**

**6.1.3.1.1** All personnel and agents of Newcastle Municipality shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement. They shall:

- a) behave equitably, honestly and transparently;
- b) discharge duties and obligations timeously and with integrity;
- c) comply with all applicable legislation and associated regulations;
- d) satisfy all relevant requirements established in procurement documents;
- e) avoid conflicts of interest; and
- f) not maliciously or recklessly injure or attempt to injure the reputation of another party.

**6.1.3.1.2** All personnel and agents engaged in Newcastle Municipality's infrastructure delivery management system shall:

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;



- e) ensure that resources are administered responsibly;
- f) be fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist Newcastle Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and
- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

**6.1.3.1.2** An employee or agent may not amend or tamper with any submission, tender or contract in any manner whatsoever.

#### **6.1.3.2 Conflicts of interest**

**6.1.3.2.1** The employees and agents of Newcastle Municipality who are connected in any way to procurement and delivery management activities which are subject to this policy, shall:

- a) disclose in writing to the employee of the Newcastle Municipality to whom they report, or to the person responsible for managing their contract, if they have, or a family member or associate has, any conflicts of interest; and
- b) not participate in any activities that might lead to the disclosure of Newcastle Municipality proprietary information.

**6.1.3.2.2** The employees and agents of Newcastle Municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

**6.1.3.2.3** Agents who prepare a part of a procurement document may in exceptional circumstances, where it is in Newcastle Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) Newcastle Municipality states in the tender data that such an agent is a potential tenderer;
- b) all the information which was made available to, and the advice provided by that agent which is relevant to the tender, is equally made available to all potential tenderers upon request, if not already included in the scope of work; and

- c) the bid specification committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

#### **6.1.3.3 Evaluation of submissions received from respondents and tenderers**

**6.1.3.3.1** The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) not have any conflict between their duties as an employee or an agent and their private interest;
- b) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;
- c) deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged to Newcastle Municipality.

**6.1.3.3.2** The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of Newcastle Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

**6.1.3.3.3** Newcastle Municipality personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they, or any close family member, partner or associate, has any private or business interest.

#### **6.1.3.4 Non-disclosure agreements**

Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect Newcastle Municipality's confidential information and interests.

#### **6.1.3.5 Gratifications, hospitality and gifts**

**6.1.3.5.1** The employees and agents of Newcastle Municipality shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

**6.1.3.5.2** The employees and agents of Newcastle Municipality as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) money, loans, equity, personal favours, benefits or services;
- b) overseas trips; or
- c) any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

**6.1.3.5.3** The employees and agents of Newcastle Municipality shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

**6.1.3.5.4** All employees and agents of Newcastle Municipality may for the purpose of fostering inter-personal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;
- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and
- e) gifts in kind other than those listed in a) to d) which have an intrinsic value greater than R350 unless they have declared them to the Municipal Manager.

**6.1.3.5.5** Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

**6.1.3.5.6** Employees and agents of Newcastle Municipality shall without delay report to the Municipal Manager any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

#### **6.1.3.6 Reporting of breaches**

Employees and agents of Newcastle Municipality shall promptly report to the Municipal Manager any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

#### **6.1.4 Measures to prevent abuse of the infrastructure delivery system<sup>27</sup>**

The Municipal Manager shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this policy against an employee or an agent, a contractor or other role player and, where justified:

- a) take steps against an employee or role player and inform the National Treasury and Western Cape Provincial Treasury of those steps;
- b) report to the South African Police Service any conduct that may constitute a criminal offence;
- c) lodge complaints with the Construction Industry Development Board or any other relevant statutory council where a breach of such council's code of conduct or rules of conduct are considered to have been breached;
- d) cancel a contract if:
  - 1) it comes to light that the contractor has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular contract or during the execution of that contract; or

- 2) an employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

#### **6.1.5 Awards to persons in the service of the state**

**6.1.5.1** Any submissions made by a respondent or tenderer who declares in the Compulsory Declaration that a principal is one of the following shall be rejected:

- a) a member of any municipal council, any provincial legislature, or the National Assembly or the National Council of Provinces;
- b) a member of the board of Strategic Executive Directors of any municipal entity;
- c) an official of any municipality or municipal entity;
- d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- e) a member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature.

**6.1.5.2** The notes to the annual financial statements of the municipality shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified in 6.1.5.1 or who has been in the previous 12 months. Such notes shall include the name of the person, the capacity in which such person served and the amount of the award.

#### **6.1.6 Collusive tendering**

Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:

- a) is not associated, linked or involved with any other tendering entity submitting tender offers; or
- b) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender shall be rejected.

#### **6.1.7 Placing of contractors under restrictions**

**6.1.7.1** If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) after having been notified of the acceptance of his tender, failed or refused to commence the contract;

- c) had their contract terminated for reasons within their control without reasonable cause;
- d) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards Newcastle Municipality, or
- f) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of Newcastle Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

**6.1.7.2** The Manager: Legal Services shall prepare a report on the matter and make a recommendation to the Municipal Manager for placing the contractor or any of its principals under restrictions from doing business with the Newcastle Municipality

**6.1.7.3** The Municipal Manager may, as appropriate, upon the receipt of a recommendation made in terms of 6.1.7.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to Newcastle Municipality for a period of time.

**6.1.7.4** The Manager: Legal Services shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Newcastle Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and Western Cape Provincial Treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

## **6.1.8 Complaints**

**6.1.8.1** All complaints regarding the Newcastle Municipality's infrastructure delivery management system shall be addressed to the Municipal Manager. Such complaints shall be in writing.

**6.1.8.2** The Manager: Legal Services shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

## **6.2 Acquisition management**

### **6.2.1 Unsolicited proposal**

**6.2.1.1** The Newcastle Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;

- c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for Newcastle Municipality;
- d) the offer is in writing and clearly sets out the proposed cost;
- e) the person who made the offer is the sole provider of the goods or service; and
- f) Newcastle Municipality finds the reasons for not going through a normal tender processes to be sound.

**6.2.1.2** The Municipal Manager may only accept an unsolicited offer and enter into a contract after considering the recommendations of the bid adjudication committee if:

- a) the intention to consider an unsolicited proposal has been made known in accordance with Section 21A of the Municipal Systems Act of 2000 together with the reasons why such a proposal should not be open to other competitors, an explanation of the potential benefits for the Municipality and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice;
- b) Newcastle Municipality has obtained comments and recommendations on the offer from the National Treasury and Western Cape Provincial Treasury;
- c) the tender committee meeting which makes recommendations to accept an unsolicited proposal was open to the public and took into account any public comments that were received and any comments and recommendations received from the National Treasury and Western Cape Provincial Treasury; and
- d) the provisions of 6.2.1.3 are complied with.

**6.2.1.3** The Municipal Manager shall, within 7 working days after the decision to award the unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the Western Cape Provincial Treasury and Auditor General. A contract shall in such circumstances not be entered into or signed within 30 days of such submission.

## **6.2.2 Tax and rates compliance**

### **6.2.2.1 SARS tax clearance**

**6.2.2.1.1** No contract may be awarded or an order issued where the value of such transaction exceeds R 30 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

**6.2.2.1.2** In the case of a partnership, each partner shall comply with the requirements of 6.2.2.1.1.

**6.2.2.1.3** No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. An employee of Newcastle Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

**6.2.2.1.4** Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply, unless a person who is not tax compliant indicates to the Manager: SCM, Assets & Insurance that it intends challenging its tax compliance status with SARS,

- a) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
- b) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- c) no payments may be released for any amounts due in terms of the contract due to a non-compliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

**6.2.2.1.5** Newcastle Municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4e).

#### **6.2.2.2 Municipal rates and taxes**

No contract may be awarded to a tenderer who, of the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are in arrears for more than 3 months.

#### **6.2.3 Declarations of interest**

Tenders and respondents making submissions in response to an invitation to submit a tender or a call for an expression of interest, respectively shall declare in the Compulsory Declaration whether or not any of the principals:

- a) are an employee of Newcastle Municipality or in the employ of the state; or
- b) have a family member or a business relation with a person who is in the employ of the state.

#### **6.2.4 Invitations to submit expressions of interest or tender offers**

**6.2.4.1** All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on Newcastle Municipality's website and on the National Treasury eTender Publication Portal. Advertisements shall be placed by the delegated official within the SCM unit

**6.2.4.2** Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by the designated official within the SCM unit.

**6.2.4.3** Where deemed appropriate by the Manager: SCM, Assets & Insurance an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by the designated person within the SCM unit.

**6.2.4.4** Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the Municipal Manager.

**6.2.4.5** Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification meeting. Procurement documents shall be made available not less than 7 days before the closing time for submissions.

#### **6.2.5 Publication of submissions received and the award of contracts<sup>35</sup>**

**6.2.5.1** The designated official with the SCM unit shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's or municipal entity's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 30 days.

**6.2.5.2** The designated official with the SCM unit shall publish within 7 working days of the award of a contract the following on Newcastle Municipality's website

- a) the contract number;
- b) contract title;
- c) brief description of the goods, services or works;
- d) the total of the prices, if practical;
- e) the names of successful tenderers and their B-BBEE status level of contribution;
- f) duration of the contract; and
- g) brand names, if applicable.

**6.2.5.3** The designated official with the SCM unit shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders.

**6.2.5.4** The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by the designated official with the SCM unit.

#### **6.2.6 Disposal committee**

**6.2.6.1** The Municipal manager shall appoint on a disposal by disposal basis in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

**6.2.6.2** The disposal panel shall comprise not less than three people. The chairperson shall be an employee of Newcastle Municipality.

**6.2.6.3** The disposal committee shall make recommendations to the Council who shall approve the recommendations, or refer the disposal strategy back to the disposal committee for their reconsideration, or decide not to proceed or to start afresh with the process.

### **6.3 Reporting of infrastructure delivery management information**



The Manager: SCM, Assets & Insurance shall submit any reports required in terms of the standard to the National Treasury or Western Cape Provincial Treasury.

## **7 Infrastructure procurement**

### **7.1 Procurement documents**

7.1.1 Newcastle Municipality's preapproved templates for Part C1 (Agreements and contract data) of procurement documents shall be utilised to obviate the need for legal review prior to the awarding of a contract. All modifications to the standard templates shall be approved by the Municipal Manager prior to being issued for tender purposes.

7.1.2 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.

7.1.3 The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for:

- a) consultancy services; and
- b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.

### **7.3 Developmental procurement**

The approved Preferential Procurement Policy of Council will address developmental aspects

### **7.4 Payment of contractors**

Newcastle Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.

### **7.5 Approval to utilise specific procurement procedures**

7.5.1 Prior approval shall be obtained for the following procurement procedures from the following persons, unless such a procedure is already provided for in the approved procurement strategy:

- a) The municipal manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure<sup>45</sup>.

7.5.2 The person authorised to pursue a negotiated procedure in an emergency is the Head of the Department.

### **7.6 Receipt and safeguarding of submissions**

7.6.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.

**7.6.2** The tender box shall be fitted with a lock and the key kept by a designated official within the SCM unit. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

## **7.7 Opening of submissions**

**7.7.1** Submissions shall be opened by an opening panel comprising at least two designated officials in the SCM unit who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

**7.7.2** The opening panel shall open the tender box at the stipulated closing time and:

- a) sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- b) return submissions unopened and suitably annotated where:
  - 1) submissions are received late, unless otherwise permitted in terms of the submission data;
  - 2) submissions were submitted by a method other than the stated method,
  - 3) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and
  - 4) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;
- d) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) stamp each returnable document in each tender submission.

**7.7.3** A designated member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 7.7.3h).

**7.7.4** Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

**7.7.5** Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.

## **7.8 Use of another organ of state's framework agreement**

Newcastle Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so. The municipal manager shall make the necessary application to that organ of state to do so.

## 7.9 Insurances

7.9.1 Contractors shall be required to take out all insurances required in terms of the contract.

7.9.2 The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by the municipal manager.

7.9.3 Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

**Table 4: Minimum insurance cover<sup>52</sup>**

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract	Not less than R20 million
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0 million electrical, mechanical and engineering: R3,0 million architectural: R5,0 million other R3,0 million

7.9.4 The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed by the municipal manager.

7.9.5 SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.

**7.9.5** Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the in relation to the nature of the service that they provide.

**7.9.6** Newcastle municipality shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

**7.9.7** Where payment is to be made in multiple currencies, either the contractor or Newcastle Municipality should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

## **7.10 Written reasons for actions taken**

**7.10.1** Written reasons for actions taken shall be provided by the Chairperson of the Bid Adjudication Committee.

**7.10.2** The written reasons for actions taken shall be as brief as possible and shall as far as is possible, and where relevant, be framed around the clauses in the:

- a) SANS 10845-3, *Construction procurement - Part 3: Standard conditions of tender*, and, giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or
- b) SANS 10845-4, *Construction procurement - Part 4: Standard conditions for the calling for expressions of interest*;

as to why a tenderer was not considered for the award of a contract or not awarded a contract.

**7.10.3** Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

## **7.11 Request for access to information**

**7.11.1** Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act 2 of 2000), the "requestor" should be referred to Newcastle municipality's Information Manual which establishes the procedures to be followed and the criteria that have to be met for the "requester" to request access to records in the possession or under the control of Newcastle municipality.

**7.11.2** Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.

# **NEWCASTLE MUNICIPALITY**



## **CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION POLICY**

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## SECTION A3 - CREDIT CONTROL, DEBT COLLECTION AND CUSTOMER CARE POLICY

### A DEFINITIONS

For the purpose of these by-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise.

<b>"account"</b>	any invoice / statement rendered for municipal services provided;
<b>"account holder"</b>	any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water; <b>Includes a customer / consumer and refers to any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;</b>
<b>"Act"</b>	The Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;
<b>"applicable charges"</b>	the rates, charges, tariffs, flat rates or subsidies determined by the Municipal Council during the budget process, including those costs or fees relating to or incurred during the Credit Control and Debt Collection processes;
<b>"average consumption"</b>	means the deemed consumption of a customer of a municipal service during a specific period, which is calculated by dividing the total actual consumption of that municipal service by that customer over the preceding three months by three;
<b>"shared consumption"</b>	means the consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a customer's premises is situated for the same period by the number of customers within that supply zone, during the same period;
<b>"actual consumption"</b>	means the measured consumption of any customer;
<b>"agreement"</b>	means the contractual relationship between the municipality or its authorised agent and a customer, whether written or deemed;
<b>"area of supply"</b>	means any area within or partly within the area of jurisdiction of the municipality to which a municipal service or municipal services are provided;



<b>"arrears"</b>	means any amount due, owing and payable by a customer in respect of a municipal account not paid on the due date;
<b>"authorised agent"</b>	means – <ul style="list-style-type: none"> <li>(a) any person authorised by the municipal council to perform any act, function or duty in terms of, or exercise any power under these by-laws; and / or</li> <li>(b) any person to whom the municipal council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and / or</li> <li>(c) any person appointed by the municipal council in terms of a written contract as a service provider to provide revenue services to customers on its behalf, to the extent authorised in such contract;</li> </ul>
<b>"billing"</b>	means invoicing on a municipal account to an account holder of an amount or amounts payable for assessment rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;
<b>"commercial customer"</b>	any customer other than household and indigent customers, including without limitation, business, government and institutional customers;
<b>"connection"</b>	the point at which a customer gains access to municipal services;
<b>"customer"</b>	Any person liable to the Municipality for Provision of Municipal services;
<b>"consumer"</b>	the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises
<b>"defaulter"</b>	means a customer in arrears;
<b>"due date"</b>	means the date specified as such on a municipal account dispatched by the municipality to an account holder for any charges payable and which is the last day allowed for the payment of such charges;
<b>"emergency situation"</b>	means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;
<b>"estimated consumption"</b>	means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of

	municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;
<b>"final demand"</b>	means any notification by the Municipality or its authorized agent demanding payment of arrears, including, but not limited to a hand delivered notice, e-mail, fax, telephone reminder or registered letter;
<b>"household customer"</b>	means a customer that occupies a dwelling, structure or property primarily for residential purposes;
<b>"household"</b>	means a traditional family unit
<b>"illegal connection"</b>	means a connection to any system through which municipal services are provided that is not authorised or approved by the municipality or its authorised agent;
<b>"indigent customer"</b>	means a household customer qualifying and registered with the municipality as an indigent in accordance with the Indigent Policy;
<b>"interest"</b>	means the rate of interest determined by the Council payable on the amount due in terms of a municipal account which is in arrears;
<b>"municipality"</b>	means – <ul style="list-style-type: none"> <li>(a) the Newcastle municipality established in terms of section 12 of the Structures Act or its successors-in-title; or</li> <li>(b) the municipal manager of the Newcastle council in respect of the performance of any ion or exercise of any right, duty, obligation or function in terms of these by-laws;</li> </ul>
<b>"municipal council"</b>	means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);
<b>"municipal manager"</b>	means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person – <ul style="list-style-type: none"> <li>(a) acting in such position; and</li> <li>(b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;</li> </ul>
<b>"municipal services"</b>	means for this purpose, services provided by the municipality or its authorised agent, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;
<b>"occupier"</b>	includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

**"owner"**

means -

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the event that the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
  - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to -
  - (i) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act No. 69 of 1984), a voluntary association;
  - (ii) any Department of State;
  - (iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa; and
  - (iv) any Embassy or other foreign entity;
- (g) a lessee of municipal property who will be deemed to be the owner for the purposes of rendering a municipal account;
- (h) A person who is not a registered owner of a property, in occupation of such property by virtue of the Black administration Act.

**"person"**

includes any legal person or entity;

**"premises"**

means any piece of land, the external surface boundaries of which are delineated on -

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act No. 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 93 of 1986), which is situated within the area of jurisdiction of Council;

- (c) and includes any other land and any building or structure above or below the surface of any land;

**“public notice”**

means publication in an appropriate medium that may include one or more of the following -

- (a) publication of a notice, in the official languages determined by the municipal council, –
  - (i) in the local newspaper or newspapers in the area of the municipality; or
  - (ii) in the newspaper or newspapers circulating in the area of the municipality determined by the municipal council as a newspaper of record; or
  - (iii) by means of radio broadcasts covering the area of the municipality; or
- (b) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
- (c) communication with customers through public meetings and ward committee meetings;

**“subsidised service”**

means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service including services provided to customers at no cost;

**“supply zone”**

means an area, determined by the municipality or its authorised agent, within which all customers are provided with services from the same bulk supply connection;

**“sundry charges”**

a charge to a customer not directly linked to a property;

**“tampering”**

means any unauthorised interference with the municipality's supply, seals and metering equipment and "tamper" has a corresponding meaning;

**“unauthorised services”**

means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

## **B     OBJECTIVES, SCOPE AND IMPLEMENTATION OF POLICY**

### **1.     Objectives and scope**

The Council, in adopting this policy recognises its constitutional obligation to promote social and economic development in harmony with the environment and to ensure the provision to communities of services which are affordable and of an acceptable standard.

It further recognises that it cannot fulfil its constitutional duties unless it ensures compliance by members of the local community with the provisions of section 5(2)(b) of the Act, to pay promptly for service fees, surcharges on fees, rates on property and other taxes, levies and duties which have been legitimately imposed by it (subject to the relief afforded in its Indigent Policy).

The Council is further mindful of its obligations in terms of sections 95 and 97 of the Act and accordingly aims:

- (a) Through the implementation of this policy, to ensure that the municipality is financially and economically viable;
- (b) To establish and maintain a customer care and management system which aims -
  - (i) to create a positive and reciprocal relationship between the municipality and an account holder;
  - (ii) to establish mechanisms for an account holder to give feedback to the municipality regarding the quality of the services and the performance of the municipality;
  - (iii) to ensure that reasonable steps are taken to inform an account holder of the costs involved in service provision, the reasons for payment of service fees, and the manner in which monies raised from the services provided, are utilised;
  - (iv) to ensure, where the consumption of services has to be measured, that reasonable steps are taken to measure the consumption by individual account holders of services through accurate and verifiable metering systems;
  - (v) to ensure that an account holder receives regular and accurate accounts that indicate the basis for calculating the amounts due;
  - (vi) to provide accessible mechanisms for an account holder to query or verify a municipal account and metered consumption and appeal procedures which allow the account holder to receive prompt redress for inaccurate accounts;
  - (vii) to provide accessible mechanisms for dealing with complaints from an account holder, together with prompt replies and corrective action by the municipality, and to provide mechanisms to monitor the response time and efficiency of the municipal's actions;
  - (viii) to provide for accessible pay points and other mechanisms for settling an account or for making pre-payments for services;
- (c) To put in place credit control and debt collection mechanisms and procedures which aim to ensure that all money that is due and payable, from whatever cause, to the municipality, subject to the Act and other legislation, is collected;
- (d) To achieve and maintain consistently high levels of payment by its customers in accordance with the best practice achieved in municipalities in the Republic and in accordance with the standards set each year by the Council in conjunction with its approval of the Budget;
- (e) Provide a framework within which the municipal council can exercise its executive and legislative authority with regard to credit control and debt collection;

- (f) Ensure that all monies due and payable to the municipality are collected and used to deliver municipal services in the best interests of the community, residents and ratepayers and in a financially sustainable manner<sup>1</sup>;
- (g) Set realistic targets for debt collection;
- (h) Outline credit control and debt collection policy procedures and mechanisms.

## **2. Implementation, Enforcement and Delegation**

### **2.1. Municipal Manager is the responsible and accountable officer**

The Municipal Manager -

- (a) is responsible to the Mayor / Council for the implementation and enforcement of the provisions of this policy;
- (b) must, for the purposes of (a) take the necessary steps to implement and enforce the provisions of this policy;
- (c) is accountable to the Mayor / Council for the agreed performance targets as approved by Council and the Mayor, and for these purposes must
  - (i) from time to time, report to the Mayor / Council on matters relating to this policy, including but not limited to -
    - the effectiveness of this policy and the administrative mechanisms, resources, processes and procedures used to collect money that is due and payable to the municipality;
    - billing information, including the number of account holders, accruals, cash flow, and customer management;
    - the satisfaction levels of account holders regarding services rendered;
    - the effectiveness of the provisions to assist the poor herein and in the Indigent Policy;
  - (ii) at regular intervals meet with and receive reports from the Chief Financial Officer and other staff members with the aim of submitting recommendations on this policy to the Mayor;
  - (iii) where necessary, propose steps to the Mayor with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures;
  - (iv) where necessary, propose to the Mayor actions and adjustments to correct deviations;
  - (v) establish effective communication channels between the municipality and account holders with the aim of keeping account holders abreast of all decisions by Council that may affect them;
  - (vi) establish customer service centres which are located in such communities as determined by Council;

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<sup>1</sup> Section 96(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) provides that a municipality must collect all money that is due and payable to it subject to this Act and any other applicable legislation.

- (vii) identify, appoint, and enter into agreements with suitable business concerns, institutions, organizations, establishments or parastatal institutions to serve as agencies of the municipality in terms of this policy;
- (viii) convey to account holders information relating to the costs involved in service provision, the reasons for payment of service fees, and the manner in which monies raised from the services are utilised, and may where necessary, employ the services of local media to convey such information;
- (ix) expedite the processing of complaints or inquiries received from an account holder and must ensure that an account holder receives a response within a time determined by this policy and must monitor the response time and efficiency in these instances;
- (x) in line with the latest technological and electronic advances, endeavour to make twenty-four hour electronic inquiry and payment facilities available to account holders;
- (xi) encourage account holders and take steps where needed, to ensure settlement of outstanding accounts within the ambit of this policy;
- (xii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder -
  - any outstanding amounts as may be agreed;
  - such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

## **2.2. Role and responsibility of Councillors**

- 2.2.1. Section 99 of the Act appoints the Mayor as the supervisory authority to oversee and monitor the implementation and enforcement of this policy, the performance of the Municipal Manager in implementing it and its associated bylaw and as required by the Council, to report to it.
- 2.2.2. In addition to the monitoring role provided in 2.2.1 above, all Councillors are responsible for promoting this policy and compliance with it. In order to maintain the credibility of this policy as adopted by the Council, all Councillors must lead by example and ensure that his/her account with the municipality is and remains paid in full. Full details of all accounts of Councillors shall be tabled before the Finance Committee and disclosed in the municipality's financial statements.
- 2.2.3. Ward councillors will be required to hold regular ward meetings, at which customer care and debt issues will be given prominence.

## **2.3. Reporting to Council**

- 2.3.1. The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to Council. This report is not limited to but shall at least provide information on the following:
  - i. Cash flow information for the capital and operating accounts, and combined situation, showing Council's actual performance against its cash flow budgets.
  - ii. Cash collection statistics, showing high-level debt recovery information (numbers of customers; enquires; default arrangements; growth or reduction of arrear debtors; ideally divided into wards, business (commerce and industry) domestic, state, institutional and other such divisions.
  - iii. Performance of all areas against targets agreed to in term of paragraph 18 of this policy document.

- iv. Council's on-going income and expenditure statements, comparing both billed income and cash receipt income, against on-going expenditure in both the capital and operating accounts.
- 2.3.2. If in the opinion of the Chief Financial Officer, Council will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will, if he agrees with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realisable income levels.
- 2.3.3. Council shall regularly receive a report from the Chief Financial Officer, if necessary after consultation with suitable consultants, on the manpower and systems requirements of treasury which requirements take into account Council's agreed targets of customer care and management, and debt collection, and after considering this report, Council will within reason vote such resources as are necessary to ensure that Treasury has the staffing and structures to meet Council's targets in this regard or to outsource the service.
- 2.4. Delegation**
- The necessary power and authority is hereby delegated to the Municipal Manager to enable him/her to fulfil his/her responsibilities and obligations in term hereof, with full authority to further delegate any specific responsibility.

## **C CUSTOMER CARE AND CREDIT CONTROL**

### **3.1. Application for supply of municipal services and service agreements**

- 3.1.1. Application forms are available at the municipal offices and the application process for the supply of services to any premises must be made at least four working days prior to the service being required, in the prescribed format, and must comply with the conditions as determined by the Municipal Manager or his or her delegate from time to time. This will ensure that services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having services available when occupation is taken. Once the application is approved, a service agreement will be entered into and services will commence.
- 3.1.2. Only the owner of a property, his duly authorised agent on his or her behalf or a legal tenant may apply for municipal services to be supplied to a property. On default by a tenant, the owner is the debtor of last resort. The tenant will be required to provide proof of legal occupation, preferably an originally signed lease agreement or a certified copy thereof, a certified copy of the owners ID and a signed guarantee by the owner prior to being allowed to sign the service agreement.
- 3.1.3. No services shall be supplied unless and until application has been made by the owner/tenant and a service agreement in the prescribed format has been entered into and the deposit as provided for in paragraph 3.3 has been paid.
- 3.1.4. Sundry accounts- the customer must provide the Municipality with a Municipal account number or rate account number. If the customer does not have an existing Municipal account, then a new account must be created.
- 3.1.5. If there is an outstanding debt on the property, this debt must be settled in full, or suitable payment arrangements must be made by the owner of the property, before any customer/owner is registered for services.



### 3.4. Billing<sup>1</sup> and payment of Accounts

- 3.4.1. The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account, provided however that:
- (a) the Council may from time to time offer a discount on amounts due to the municipality as an incentive for timely payment of current amounts due by the due date therefor;
  - (b) an account holder remains liable to make payment of the full amount due, on due date therefor and any discount becoming due to an account holder in terms of any such incentive in force from time to time will be reflected as a credit on the following month's account;
- 3.4.2. An account holder must pay for metered and other service charges, assessment rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- 3.4.3. An account holder -
- (a) has one account number and will be rendered one consolidated account for each premises to which services are rendered or for which rates are due, on which the due date for settlement of the total amount owing is reflected;
  - (b) will be rendered an account monthly in cycles of approximately thirty days;
- 3.4.4. Payment must be received before close of business on the due date.
- 3.4.5. Should any such service provider fail to furnish the municipality with the relevant details of payments made to it 3 days prior to the due dates thereof, such service provider may be held liable for all charges subsequently incurred by the municipality in pursuing recovery of an amount as a result erroneously reflected on the account of the account holder as being in arrear, as well as for interest charges.
- 3.4.6. The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, and may render an account to an account holder for the quantity of metered services so estimated.
- 3.4.7. If the Municipality is unable to read any meter on any property because the meter has been rendered inaccessible, the municipality shall estimate the consumption of the service concerned and thereafter bill the consumer for the monetary value of such estimated consumption.
- 3.4.8. In the event that the Council continues to be unsuccessful in obtaining access to the property or meter for a period of 3 months and, therefore, is unable to obtain an actual meter reading, the Chief Financial Officer or his authorised representative may disconnect the supply.
- 3.4.9. If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein, lodge an objection in writing to the Chief Financial Officer, setting out reasons for such dissatisfaction. The Chief Financial Officer, duly delegated by the Municipal Manager, or his sub-delegate, shall adjudicate on the objection.

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<sup>1</sup> Section 95 (d) of the Local Government: Municipal Systems Act, 2000 provides that a municipality must, within its financial and administrative capacity take reasonable steps to ensure that the consumption of services has to be measured through accurate and verifiable metering systems.

- 3.4.10. Should an account holder lodge an objection the account holder must notwithstanding such objection, continue to make regular payments by the due date, of an amount equivalent to the average of the account holder's municipal account for the three month period prior to the month in respect of which the dispute is raised, and taking into account interest as well as the annual amendments of tariffs of Council.
- 3.4.11. An error or omission in any account or failure to render an account shall not relieve the account holder of the obligation to pay by the due date. The onus is on the customer to make every effort to obtain a copy of the account, or establish the amount payable for payment.
- 3.4.12. If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is as a consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should have been charged, the account holder shall be liable for the amount due to the municipality in accordance with the prescribed charges in respect of-
  - (a) the quantity of water or electricity which in the opinion of the Municipal Manager, or his delegate, the account holder has used and for which the account holder has not been charged;
  - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- 3.4.13. An account holder shall not be entitled to a reduction of the amount payable for metered services which are lost due to a default in the meter, save in terms of the provisions of paragraph 6.8.
- 3.4.14. The municipality may-
  - (a) Have the accounts posted, or sent electronically if so registered, to all customers;
  - (b) The Municipality or it's authorised agent must, if administratively possible, issue a duplicate account to a customer on request. The Municipality will provide owners with copies of their tenant's accounts if requested.
  - (c) Consolidate any separate accounts of an account holder liable for payments to the municipality;
  - (d) Credit any payment by an account holder against any debt or account of that account holder and in its sole discretion allocate the payment between service debts on said account;
  - (e) Implement any of the provisions of this policy and Chapter 9 of the Act against such account holder in relation to any arrears on any of the accounts of such a person.
  - (f) When customer's information changes, customers are required to update their information details with the Municipality.

### **3.5. Termination of service agreement**

- 3.5.1. Notice of termination of any service agreement must be in writing to the other party of the intention to do so. On termination of service a charge for the final reading shall be levied.
- 3.5.2. An owner may terminate a service agreement relating to a property sold by him, by giving not less than four working days' notice in writing.
- 3.5.3. The Municipal Manager or his delegate may advise an account holder of the termination of the agreement for a supply of municipal services if-

- (a) The account holder has not consumed any water or electricity during the preceding six months, or has vacated the property and has not made satisfactory arrangements for the continuation of the agreement;
- (b) The account holder has committed a breach of this policy and has failed to rectify such breach;
- (c) The municipality is unable to continue to supply the account holder with municipal services as a result of the assumption by another authority of responsibility for the supply of the municipal service in question.
- (d) Landlords are not permitted to terminate services if there are occupants on the property and the accounts is not in arrears, unless the owner has obtained an eviction court order.
- (e) The Municipality may exercise its common-law right where a tenant on a property is in breach of his/her contract with the Municipality, and transfer the debt to the owners' account.
- (f) When electricity and water consumption is recorded on a property during a period for which there is no registered account against whom a bill can be raised, the relevant charges for electricity and water services shall be raised against the registered owner on his consolidated bill.

### **3.6. Payment facilities and customer care information**

- 3.6.1. The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- 3.6.2. The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- 3.6.3. Council's Customer Care, Credit Control and Debt Collection Policy should be available in Zulu, English and Afrikaans and will be made available by general publication and will also be available at Council's cash collection points.
- 3.6.4. The municipality may, with the consent of a customer, approach an employer to secure a debit or stop order arrangement.
- 3.6.5. The customer will acknowledge, in the customer agreement that the use of agents in the transmission of payments to the municipality is at the risk of the customer – also for the transfer time of the payment.
- 3.6.6. Council will endeavour to distribute a regular newsletter, which will give prominence to customer care and debt issues.
- 3.6.7. The press will be encouraged to give prominence to Council's Customer Care and Debt issues, and will be invited to Council meetings where these are discussed.
- 3.6.8. Council aims to establish:
  - (a) A customer care unit;
  - (b) A centralised complaints database to enhance co-ordination of complaints, their speedy resolution and effective communication with customers;
  - (c) Appropriate training for officials dealing with the public to enhance communications and service delivery;
  - (d) A communication mechanism to give Council feedback on service, debt and other issues of concern.
- 3.6.9. Payments which are not allocated within the period of three years, due to incorrect reference

being used will be recognised as municipality's own revenue.

### **3.7. Business who tender to the Municipality**

3.7.1. In order to comply with Supply Chain regulations and the Policy of the Council, the following will be applicable:

- (a) When inviting bids for the provision of services or delivery of goods, potential contractors may submit bids subject thereto that consideration and evaluation thereof will necessitate that the bidder obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrear;
- (b) A municipal account will includes any municipal service charges, taxes or other fees, fines and penalties due to the Municipality and outstanding at the relevant payment date;
- (c) The Municipality will at its sole discretion check whether all the municipal accounts are up to date. Copies of all accounts sent to the bidder and to each director, owner, partner or trustee must be attached to the tender documents.
- (d) Where a contractor's place of business or business interests are outside the jurisdiction of the municipality, a revenue clearance certificate from the relevant municipality must be produced.
- (e) Before awarding the bid the Municipal debt of the bidder and of each director, owner, partner or trustee of the tenderer must be paid in full
- (f) It will be a condition to allow the municipality to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.
- (g) This Policy applies to quotations, public bids and bids in terms of section 36 of the Supply Chain policy.

### **3.8. Staff and Councillors in Arrears**

- 3.8.1
  - (a) Item 10 of schedule 2 to the Act states that " A staff member of the Municipality may not be in arrears to the Municipality for rates and service charges for a period longer than three (3) months and a Municipality may deduct any outstanding amounts from a staff Member's salary after this period."
  - (b) The Municipality shall liaise with the relevant staff on repayment of their arrears.
  - (c) The staff member must sign a credit authority in accordance with this Policy.
  - (d) No special treatment shall be afforded to staff in arrears.
- 3.8.2
  - (a) Item 12A of schedule 1 to the Act states that "A Councillor may not be in arrears to Municipality for rates and service charges for a period longer than three months."
  - (b) The Municipal Manager shall liaise with the Mayor and issue the necessary salary deduction instruction where appropriate.
- 3.8.3 Where the staff or councillor's arrears have arisen due to any other reason, such arrear must be paid within 3 months.

- 3.8.4 Bonus payments and thirteenth cheques may be appropriated to the whole debt where suitable arrangements have not been made to pay off the debt.
- 3.8.5 On appointment to a higher post, employees who have signed a credit authority shall increase their instalments on the credit authority in accordance with their new salary increase.
- 3.8.6 All new employees to the Municipality are required to sign Direct Debits for the services registered in their names.

### **3.9. Arrear Accounts: Disconnection and Reconnection of Services**

- 3.9.1 Arrears on rates and services or any other consolidated debt in excess of R1000 may result in disconnection of ANY service or with-holding of the use of Municipal facilities.
- 3.9.2 A termination fee will be raised on all accounts identified for disconnection.
- 3.9.3 Any official or contractor appointed by the Municipality for the purposes set out herein, may, at all reasonable times enter any premises to which services are supplied by the Municipality, in order to inspect pipes, wires or any apparatus used for the supply of services and belonging to the Municipality, for the purpose of ascertaining the quality of services supplied or consumed, or to disconnect or terminate such supply or remove any apparatus belonging to the Municipality. Should access be unreasonably denied or prevented, a disconnection penalty fee may be raised.

### **3.10 Incentives for prompt payment**

- 3.10.1 The municipality may from time to time consider incentives for the payment of accounts to encourage payment, and to reward regular payers. Such schemes will aim at incentivising regular payment and not poor payment and the content of it will be submitted for approval by the Council under separate cover when appropriate.
- 3.10.2 Such incentive schemes, if introduced, will be reflected in annual budgets as additional expenditure.

### **3.11 Customer assistance programmes**

#### **3.11.1 Water leakages**

- (a) Water leaks after the water meter supplying to a premises, is the responsibility of the relevant owner/consumer and s/he remains responsible for payment of such metered water.
- (b) The Municipality may introduce programmes to assist consumers in such cases where extensive losses are experienced because of under-ground leakages which went undetected for a period of time.

- (c) The municipality may support and or introduce a Water Insurance scheme(s) that will assist and or protect consumers against losses as a result of water leakages. Premiums of such insurance protection will be payable by the participating consumer.
- (d) Consumers remain responsible to control and monitor their consumption.

#### **3.11.2 Assistance to Indigent Households to repair leakages**

- (a) The Municipality may assist registered indigent households to repair leaks in order to minimise water losses and limit consumption to the determined levels.

#### **3.11.3 Assistance to the Poor and Child Headed Households**

- (a) Welfare is to be separated from tariff and credit control issues and will be supported by appropriate and affordable policies and practices. Indigent households will be identified and supported in terms of the Indigent Policy.
- (b) An account holder who is in the seat of assistance must immediately notify the municipality in the event of any of the qualifying criteria applicable to the account holder changing to enable the municipality to review and to reconsider the household's status as a poor household.
- (c) Households which qualify as poor households may receive a credit for some or all of the following:
  - i. A quantity of electricity;
  - ii. a quantity of water;
  - iii. the refuse removal charges;
  - iv. the sewerage charges;
  - v. assessment rates;
  - vi. any other service fees, taxes or charges over and above the rendered services; as may be determined by the Council from time to time in terms of its Indigent Policy.
- (d) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit given.

## **D DEBT COLLECTION**

### **4. Enforcement Mechanisms**

#### **4.1. Municipality's powers to restrict or disconnect supply of services<sup>1</sup>**

- 4.1.1. Customers who have not paid their municipal account by the due date noted on the account and who have not made satisfactory arrangements with the council will have their supply of electricity and or water, and/or other municipal services, suspended, disconnected or restricted.

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<sup>1</sup> Section 97 (g) of the Local Government: Municipality Systems Act, 2000 provides that a credit control and debt collection policy must provide for termination of services or the restriction of the provision of services when payments are in arrears.

- 4.1.2. Council reserves the right to deny or restrict the provision of electricity and or water to customers who are in arrears with their rates or any other municipal charges.
- 4.1.3. The cost of the restriction or disconnection, as for the reconnection, will be determined by tariffs agreed by Council and will be payable by the customer.
- 4.1.4. The municipality may, in addition to any other provision in this policy, restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if-
- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 37 of 1944), in respect of an account holder;
  - (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
  - (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
  - (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
  - (e) an account holder causes a situation which in the opinion of the Municipal Manager or his delegate, is dangerous or constitutes a contravention of relevant legislation;
  - (f) is placed under provisional liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936).

#### **4.2. Interest and penalties**

- 4.2.1. Interest will be raised as a charge on all accounts not paid by the due date in accordance with applicable legislation as provided for in the Tariff of Charges.<sup>1</sup>

#### **4.3. Notification**

- 4.3.1. Council will endeavour, within the constraints of affordability, to notify arrear debtors on the state of their arrears and to encourage them to pay. They will be informed on their rights (if any) to conclude arrangements or to apply for indigent subsidies should they comply with the conditions, and other related matters.
- 4.3.2. Such notification is not a right to debtors with arrears but a courtesy from the Council to improve payment levels and relations. Disconnection / restriction of services and other collection proceedings will continue in the absence of such notices and contact with debtors for whatever reason.

#### **4.4. Legal Process / Use of attorneys / Use of credit bureaus**

- 4.4.1. When steps to collect arrears have been taken and failed, Council will commence the legal process with that debtor, which process could involve the execution of judgements including sales of properties.
- 4.4.2. Council will exercise strict control over this process, to ensure accuracy and legality within it, and will require regular reports on progress from outside parties, be they attorneys or any other collection agents appointed by council.

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<sup>1</sup> Section 97 (c) of the Local Government: Municipal Systems Act, 2000 provides that a credit control and debt collection policy must provide for interest on arrears, where appropriate.

- 4.4.3. Council will establish procedures and codes of conduct with these outside parties.
- 4.4.4. Garnishee orders, in the case of employed debtors, are preferred to sales in execution, but both are part of Council's system of debt collection procedures.
- 4.4.5. All steps in the credit control procedure will be recorded for Council's records and for the information of the debtor.
- 4.4.6. All costs of this process are for the account of the debtor.
- 4.4.7. Individual debtor accounts are protected and are not the subject of public information. However Council may release debtor information to credit bureaus. This release will be in writing and this situation will be included in Council's agreement with its customers.
- 4.4.8. Council may consider the cost effectiveness of this process, and will receive reports on relevant matters, including cost effectiveness.
- 4.4.9. Council may consider the use of agents, and innovative debt collection methods and products. Cost effectiveness, the willingness of agents to work under appropriate codes of conduct and the success of such agents and products will be part of the agreement Council might conclude with such agents or product vendors; and will be closely monitored by Council.
- 4.4.10. Customers will be informed of the powers and duties of such agents and their responsibilities including their responsibility to observe agreed codes of conduct.
- 4.4.11. Any agreement concluded with an agent or product vendor shall include a clause whereby breaches of the code of conduct by the agent or vendor will see the contract terminated.

#### **4.5. Theft and fraud**

- 4.5.1. Any person (natural or juristic) found to be illegally connected or reconnected to municipal services, tampering with meters, reticulation network or any other supply equipment or committing any unauthorised service associated with the supply of municipal services, as well as theft and damage to Council property, will be prosecuted and/or liable for penalties as determined from time to time <sup>1</sup>.
- 4.5.2. Council will immediately terminate the supply of services to a customer should such conduct as outlined above be detected.
- 4.5.3. The total bill owing, including penalties, assessment of unauthorised consumption and discontinuation and reconnection fees, and increased deposits as determined by Council if applicable, becomes due and payable before any reconnection can be sanctioned.
- 4.5.4. Council will maintain monitoring systems and teams to detect and survey customers who are undertaking such illegal actions.
- 4.5.5. Council may distinguish in its penalties between cases of vandalism and cases of theft.
- 4.5.6. Subsequent acts of tampering will lead to penalties and deposits increasing in quantum.
- 4.5.7. Council reserves the right to lay charges and to take any other legal action against both vandals and thieves.
- 4.5.8. Any person failing to provide information or providing false information to the municipality may face immediate disconnection.

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<sup>1</sup> Section 97 (h) of the Local Government: Municipal Systems Act, 2000 provides that a credit control and debt collection policy must provide for matters relating to unauthorised consumption of services theft and damages.



- 4.5.9. The Municipality may, in terms of section 28 and 29 of the Municipal Property Rates Act (MPRA), recover arrear rates from tenants in occupation of the relevant property, or managing agents, but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property, This does not preclude further legal action against the owner.

#### **4.6. Cost of collection**

- 4.6.1. All costs of legal processes, including interest, penalties, service discontinuation costs and legal costs associated with credit control and debt management are for the account of the debtor and should reflect at least the cost of the particular action.

#### **4.7. Abandonment**

- 4.7.1. The Municipal Manager must ensure that all avenues are utilised to collect the Municipality's debt and the collection thereof can only be stopped in terms of the Provision for Doubtful Debts and Debt Write-off Policy.
- 4.7.2. There are some circumstances that allow for the valid termination of debt collection procedures, inter alia:
- (a) The insolvency of the debtor, whose estate has insufficient funds;
  - (b) A balance being too small to recover, for economic reasons considering the cost of recovery.

#### **4.8. Managing Assessment Rates**

- 4.8.1. The Council may from time to time determine exemptions, reductions and rebates on the levying of assessment rates in accordance to the Local Government: Municipal Property Rates Act, 2004 ( Act No 6 of 2004). The detail of this will be dealt with in the Councils' Property Rates Policy.
- 4.8.2. The Municipality may apply to court for the attachment of any rent due in respect of rateable property to cover in part or in full any amount due for assessment rates on said property which has remained unpaid for a period longer than three months after the payment date.
- 4.8.3. Where a company, close corporation, trust or a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) is responsible for the payment of any amounts for rates, liability therefor shall be extended to the directors, members or trustees thereof jointly as the case may be.

#### **4.9. Rates clearance certificates**

- 4.9.1. To affect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the Municipal Manager or his delegate, upon application therefore in the prescribed manner after payment of the prescribed fee.
- 4.9.2. In terms of Section 118 (3) of the Act an amount due for Municipal services fees, surcharge on fees, property rates and other Municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.
- 4.9.3. Emanating from this legislation, clearance certificates will only be issued once arrears are paid in accordance to the requirements. Any debt not paid in terms of the Rates Clearance Certificate is required to be guaranteed by the proposed owner in order for the clearance certificate to be issued.

## **5. Arrangements for settlements**

- 5.1. If a customer cannot pay his/her account with the municipality then the municipality may, enter into an extended term of payment with the customer. He/she must:
- (a) Sign an acknowledgement of debt;
  - (b) Sign a consent to judgement;
  - (c) Provide a garnishee order/emolument order/stop order (if he or she is in employment);
  - (d) Acknowledge that interest will be charged at the prescribed rate;
  - (e) Pay the current portion of the account in cash;
  - (f) Sign an acknowledgement that, in the event of arrangements previously negotiated later being defaulted on, no further arrangements will be possible. Under such circumstances restriction / disconnection of water and electricity will immediately follow, as will legal proceeding.
- 5.2. Customers with electricity arrears should agree to the conversion to a pre-payment meter, if and when implemented the cost of which, and the arrears total, will be paid off either by:
- (a) adding it to the arrears bill and repaying it over the agreed period;
  - (b) adding it as a surcharge to the prepaid electricity cost, and repaying it with each purchase of electricity until the debt is liquidated.
- 5.3. Council reserves the right to raise the deposit/security requirement in accordance with paragraph 3.3 of debtors who seek arrangements.
- 5.4. Account holders who can prove that they are employed, where the pay date is set as the 15th day of the month. Council may require the signing of a debit order to qualify for this extension.

## **E METERING EQUIPMENT AND METERING OF SERVICES**

### **6. Metering equipment and measuring of consumption**

- 6.1. The municipality shall, at the account holder's cost, in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- 6.2. The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- 6.3. Where any building referred to in 6(2) is metered as a whole -
- (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement;
  - (b) the relevant Executive Director, duly delegated by the Municipal Manager, may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate occupation for the purpose of determining the quantity of metered services supplied to each such unit.

- 6.4. Where the electricity used by consumers is charged at different tariffs, the consumption shall be metered separately in such a way that will enable billing at the applicable tariffs.
- 6.5. Where sub-metering equipment is installed, accommodation separate from the Municipality's metering equipment must be provided by the account holder as required by the Municipality
- 6.6. Except in the case of pre-payment meters, the quantity of metered services used by an account holder during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- 6.7. For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services shall be deemed to be consumed during every period of 24 hours between readings.
- 6.8. The following shall apply with regard to the accuracy of metering:
- (a) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in 6(13), is found to be within the limits of error as provided for in the applicable standard specifications;
  - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the municipality shall in accordance with the provisions of 6(6);
    - (i) in case of a credit meter, adjust the account rendered;
    - (ii) in the case of prepayment meters, render an account where the meter has been under-registering; or issue a free token where the meter has been over-registering;
  - (c) An account holder is entitled to have metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraphs 6(7) and 6(8)(b) shall be made and the aforesaid fee shall be refunded.
- 6.9. No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager or his delegate.
- 6.10. Prior to the municipality making any upward adjustment to an account in terms of paragraph 6(8)(b), the municipality must -
- (a) notify the consumer in writing of the amount of the adjustment to be made and the reasons therefor;
  - (b) in such notification provide sufficient particulars to enable the account holder to submit representations thereon;
  - (c) call upon the account holder in such notice to present it with reasons in writing, if any, within 14 days or such longer period as the municipality may in its discretion permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period referred to in paragraph 6(10)(c) the municipality shall be entitled to adjust the account as notified in paragraph 6(10)(a).
- 6.11. The municipality must consider any representation provided by the consumer in terms of subsection 6(10) and must, if satisfied that a case has been made out therefore, adjust the account appropriately.

- 6.12. If the Municipal Manager or his delegate decides, after having considered a representation made by the account holder, that such representation does not establish a case warranting an amendment to the amount established in terms of subsection 6(15), the municipality shall adjust the account as notified in terms of paragraph 6(10)(a), and the account holder shall have the right of appeal provided for in this policy.
- 6.13. Meters are tested in the manner as provided for in the standard specifications applicable thereto.
- 6.14. When an adjustment is made to the consumption registered on a meter in terms of paragraphs 6(8)(b) or 6(8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection 6(13), or upon a calculation by the municipality from consumption data in its possession and where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect consumption.
- 6.15. When an adjustment is made as contemplated in subsection 6(14), the adjustment may not be for a period exceeding six months preceding the date on which the metering equipment was found to be inaccurate, however, the provisions of shall not bar an account holder from claiming recovery of an overpayment for any longer period where the account holder is able to prove the claim in the normal legal process.
- 6.16. The relevant Executive Director, duty delegated by the Municipal Manager, may dispense with the use of a meter in case of:
- (a) an automatic sprinkler fire installation;
  - (b) a fire installation or hydrant;
  - (c) special circumstances at the Municipal Manager's discretion.
- 6.17. The municipality may by notice -
- (a) prohibit or restrict the consumption of metered services -
    - (i) for specified or non-specified purposes;
    - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days;
    - (iii) in a specified or non-specified manner;
  - (b) determine and impose -
    - (i) limits on the quantity of metered services which may be consumed over a specified period;
    - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i);
    - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services;
  - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services are used or consumed, or on the connection of such appliance.
- 6.18. The Council may limit the application of the provisions of a notice contemplated in 6(17) to specified areas and classes of account holders, premises and activities, and may provide for the Municipal Manager to permit deviations and exemptions from, and the relaxation of any of the provisions on such grounds as he or she may deem fit.
- 6.19. To ensure compliance with a notice published in terms of subsection 6(17), the Municipal Manager or his delegate may take, or by written notice require an account holder at the account

holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.

- 6.20. In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection 6(17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless it is proved that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, provided however, that the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.
- 6.21. The provisions of this paragraph also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection 6(17).
- 6.22. If such action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the Municipal Manager, or his delegate, may -
- (a) without prior notice disconnect the supply of metered services to any premises;
  - (b) enter upon such premises and do such emergency work, at the account holder's expense, as he or she may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the relevant Executive Director may deem necessary.
- 6.23. Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment are restored, an account holder must pay all fees and charges as determined by the municipality, from time to time.
- 6.24. The Municipal Manager may, at the written request of an account holder and on the dates requested by the account holder -
- (a) disconnect the supply of metered services to the account holder's premises;
  - (b) restore the supply, and the account holder must before the metered services is restored pay the prescribed charge for the disconnection and restoration of his or her supply of metered services.
- 6.25. After disconnection for non-payment of an account or a contravention of any provision of these by-laws, the prescribed charge for such reconnection should be paid before reconnection is affected, or at any other agreed upon date.
- 6.26. The following shall apply to the reading of credit meters:
- (a) Unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the municipality is not obliged to effect any adjustments to such charges;
  - (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption shall be adjusted in a subsequent account in accordance with the consumption actually consumed;

- (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
- (d) if a special reading of the meter is desired by an account holder, this may be obtained upon payment of the prescribed fee;
- (e) if any calculation of, reading or metering error is discovered in respect of any account rendered to a consumer -
  - (i) the error shall be corrected in subsequent accounts;
  - (ii) any such correction shall only apply in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered,
  - (iii) the correction shall be based on the actual tariffs applicable during the period;
  - (iv) the application of this paragraph does not prevent a consumer from reclaiming an overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

6.27. The following shall apply to pre-payment metering:

- (a) No refund of the amount tendered for the purchase of electricity or water credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced;
- (b) copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer;
- (c) when an account holder vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the owner by the municipality;
- (d) the municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens;
- (e) where an account holder is indebted to the municipality for any assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the municipality may either allocate a percentage of the amount tendered for the purchase of pre-paid electricity in reduction of the amount owing to the municipality or may terminate services.
- (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

## **7. Resale of water or electricity (7)**

- 7.1 No account holder who is supplied with metered services in terms of this policy may sell or supply water or electricity, supplied to the account holder's premises under an agreement with the municipality, to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or permit or suffer such resale or supply to be made, unless provision has been made therefore in a special agreement with the municipality or unless prior authority has otherwise been obtained from the municipality to do so.
- 7.2 If the municipality grants permission as referred to in 7(1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.

- 7.3 Permission referred to in subsection 7(1) may be withdrawn at any time.
- 7.4 Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as the municipality may decide.

## **F MISCELLANEOUS MATTERS (8)**

### **8. Tampering, unauthorised connections and reconnections, and improper use**

- 8.1 The municipality shall be entitled to monitor its service network for signs of tampering or irregularities.
- 8.2 No person may in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- 8.3 Where prima facie evidence exists that a consumer or any person has contravened 8(2), the municipality shall be entitled to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the municipality for such disconnection.
- 8.4 Where an account holder or any person has contravened 8(2) and such contravention has resulted in the meter recording less than the true consumption, the municipality shall be entitled to recover from the account holder the full cost of the ~~estimated~~ averaged consumption.

### **9. Relaxation, waiver and differentiation of customers (9)**

- 9.1 Pursuant to this policy, the municipality may differentiate between different categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters.
- 9.2 The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this policy, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any provision of this policy that may result in -
- (a) the wastage or excessive consumption of water or electricity;
  - (b) the evasion or avoidance of water or electricity restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) the non-payment for services;
  - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard;
  - (f) the contravention of any Act, or any regulation made in terms thereof;
- 9.3 The municipality may at any time upon at least 30 days written notice, withdraw any exemption given in terms of subsection 9(2).

## **10. Power of council to recover costs**

- 10.1 Where a bank dishonours any payment made to the municipality, the municipality may levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder.
- 10.2 All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears and payable shall be levied against the arrears account of the account holder.
- 10.3.1 For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff provisions.

## **11. Prima facie evidence**

A certificate reflecting that an amount is due and payable by any person to the municipality, under the hand of the Municipal Manager or a duly authorised officer of Council, is upon mere production thereof prima facie evidence of the indebtedness for any purpose and the signatory should not be obliged to prove his authority.

## **12. Authentication and service of orders, notices and other documents**

- 12.1 An order, notice or other document from the municipality must be signed by the Municipal Manager or his delegate such authority and any document purporting to be so signed shall constitute sufficient notice from the municipality.
- 12.2 Any notice or other document that is served on a person by a duly authorised officer of the municipality in terms of this policy, is regarded as having been served -
- (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic or at the premises to which the notice relates, with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic as reflected in the records of the municipality, or to the address of the premises to which the notice relates and an acknowledgement of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs 12(2)(a), 12(2)(b) or 12(2)(c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate;
  - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.



- 12.3 When any notice or other document has to be authorised or served on the owner, an account holder or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, account holder or holder of the property or right in question, and it is not necessary to name that person.
- 12.4 Service of a copy shall be deemed to be service of the original.
- 12.5 Any legal process is effectively and sufficiently served on the municipality when it is delivered to the Municipal Manager or a person in attendance at the Municipal Manager's office.

### **13. Abandonment of bad debts, and full and final settlement of an account**

- 13.1 Before terminating the debt collection procedure in any individual instance, and subject to the municipality's Provision for Doubtful Debts Debt Write-off Policy, the Municipal Manager must -
- (a) ensure that all debt collection mechanisms as provided for in the policies have been utilised where reasonable;
  - (b) maintain an audit trail;
  - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- 13.2 The Municipal Manager or his delegate may consider an offer for full and final settlement of any amount owing, and must, if in his sole discretion, he considers it in the interests of the municipality to do so, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- 13.3 Where the exact amount due and payable to Council has not been paid in full, any lesser amount tendered in full settlement to and accepted by any employee, except the Municipal Manager or the Municipal Manager's delegate, shall not be deemed to be in full and final settlement of such an amount.

### **14. National Credit Act not applicable**

The municipality is not a credit provider in terms of the National Credit Act 34/2005, and nor is that Act applicable to the recovery by the municipality of amounts due to it for rates, in terms of tariffs relating to the supply of services including fixed tariffs, fines or any other amount.

### **15. Right of appeal**

- 15.1 A person whose rights are affected by a decision of a municipal officer may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- 15.2 The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in 15.4.
- 15.3 The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- 15.4 When the appeal is against a decision taken by -

- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority, even if such staff member was acting in terms of a delegation from the Municipal Manager;
  - (b) the Municipal Manager, the Mayor is the appeal authority;
  - (c) a political structure or political officer bearer or a Councillor, a committee of councillors who were not involved in the decision and appointed by Council for this purpose; will be the appeal authority.
- 15.5 An appeal authority must commence with consideration of an appeal within six weeks and decide upon the appeal within a period of twelve weeks.

## **16. Performance evaluation**

- 16.1 **Income Collection Targets**  
Council to create targets that include:
- i. Reduction in present monthly increase in debtors in line with performance agreements determined by council.
- 16.2 **Customer Service Targets**  
Council to create targets that would include:
- i. Response time to customer queries.
  - ii. Date of first account delivery to new customers.
  - iii. Reconnection time lapse.
  - iv. Meter reading cycle.
- 16.3 **Administrative Performance**  
Council to create targets that will include:
- i. Cost efficiency of debt collection.
  - ii. Query rates.
  - iii. Enforcement mechanism ratios.
- 16.4 Council will create a mechanism wherein these targets are assessed, Council's performance is evaluated and remedial steps taken.

## **17. Schedule of variable information**

The Council and/or the Municipal Manager may as authorised in this policy, from time to time review and resolve on the matters in the attached annexures, which will be amended and publicised by posting it on the municipality's website and if necessary, by publication in the Gazette. Such information is a part of this policy.

**G ANNEXURES**

**ANNEXURE "A"**

**NEWCASTLE MUNICIPALITY  
APPLICATION FOR MUNICIPAL SERVICES**

Section ACDE - Domestic	Section BCDE - Business	Section BCDE – Closed Corporation
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Section A: Domestic
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Consumer Surname

Full Christian Names

ID Number 

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Occupation

Employer/Business

Marital Status

Single	Married	In Community of Property	Out Community of Property
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Full Names Spouse

Occupation Spouse

Employer Spouse

Name and Address of Member of Family or Friend 


Home Telephone Number

Work Telephone Number

Cell Number

Section B: Company Details
----------------------------

Business Name	<input style="width: 90%;" type="text"/>
Business Registration No.	<input style="width: 90%;" type="text"/>
ID Number - Owner (Natural Person)	<input style="width: 90%;" type="text"/>
- Partner	<input style="width: 90%;" type="text"/>
Name of Natural Person	<input style="width: 90%;" type="text"/>
Business Telephone Number	<input style="width: 90%;" type="text"/>
Cell Number	<input style="width: 90%;" type="text"/>
Fax/E-mail	<input style="width: 90%;" type="text"/>

Section C: General
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Postal Address	<input style="width: 90%;" type="text"/>
	Code: <input style="width: 150px;" type="text"/>

List of Other Accounts Held

(i)	Name	<input style="width: 90%;" type="text"/>	Account Number	<input style="width: 90%;" type="text"/>
(ii)	Name	<input style="width: 90%;" type="text"/>	Account Number	<input style="width: 90%;" type="text"/>
(iii)	Name	<input style="width: 90%;" type="text"/>	Account Number	<input style="width: 90%;" type="text"/>

Name of Bank	<input style="width: 90%;" type="text"/>
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Branch Code	<input style="width: 90%;" type="text"/>
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Account Number	<input style="width: 90%;" type="text"/>
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Previous Address and Account Number	<input style="width: 90%;" type="text"/>
	<input style="width: 90%;" type="text"/>

If tenant, where is rent paid	<input style="width: 90%;" type="text"/>
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Number of people residing on property

Total	Over 18	Under 18
<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>

Occupiers of stand other than family (rental, backyard, lodges, spaza shops, taxis etc.)

Section D:      Service Particulars
-------------------------------------

Address where service is required

Erf/Stand Number

Date when service is required

Services:

Water		
<i>Communal Standpipe</i>	<i>Yard Tap</i>	<i>House Connection</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Sewerage	
<i>Bucket</i>	<i>Water Borne</i>
<input type="text"/>	<input type="text"/>

Electricity	
<i>Prepaid</i>	<i>Credit meter</i>
<input type="text"/>	<input type="text"/>

Refuse Removal
<input type="text"/>

Type of supply:

Domestic	Commercial	Industrial	Educational	State	Agricultural
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

State whether any type of business activities to be conducted from residential address:

Yes	No
<input type="text"/>	<input type="text"/>

Section E: Declaration
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I hereby declare that I/we agree to the conditions of supply of the mentioned services as laid down in the by-laws of the Municipality and any other laws that are applicable.

I/we hereby accept the street address/stand number specified above as my own Domicilium citandi at executandi address where I will accept any notice to be served.

I/we hereby tender a deposit/bank guarantee of R\_\_\_\_\_ and agree that this amount or any part thereof may be used to redeem unpaid accounts or any parts thereof and that the surplus if any be paid back to me/us.

I/we indemnify the Municipality against any losses which may occur due to claims instituted against the Municipality due to power failure, or justifiable discontinuation of services.

I/we accept the responsibility for the payment of attorney and client costs should it be necessary for Council to hand over outstanding amounts on the accounts as well as giving permission to be listed with the Credit Bureau.

I/we received a duplicate of this application form and am/are aware of the applicable further conditions of supply set out in the annexure at the back of this form.

I/we hereby certify the information furnished to be correct.

NEWCASTLE MUNICIPALITY

~~RULES FOR NEGOTIATING INSTALLMENTS FOR REPAYMENT OF ARREARS~~

Any arrangement for payment of arrears in terms of Section 5 of the Credit Control, Debt Collection and Customer Care Policy will be negotiated within the following framework:

1. ~~Private Households:~~

~~The consumer should declare the monthly household income.~~

~~An amount equal to 15% of the net monthly income should be paid as instalments on arrears, provided that:~~

- ~~○ No debtor should be allowed to redeem arrears over a period in excess of 30 months.~~
- ~~○ In cases where the debtor indicates that the calculated payment is not affordable, but is calculated to be paid in less than 20 (Twenty) months, instalments may upon further arrangement be adjusted to 10% (ten percent) of the debtor's monthly income.~~

~~Should a debtor who has made an arrangement for payment of arrears fall into default of such arrangement, it will result in immediate legal action.~~

~~Persons earning between R 1 900 and R 5 000 to negotiate with the personnel enabling them to pay off their arrears up to / within a maximum of sixty months (Proof of household earnings to be produced);~~

2. ~~Business and Other Accounts:~~

~~The rules as applicable to Private Households shall apply, except that the arrears should be paid within a maximum period of twelve months.~~

~~RULES OF EXTENSION FOR PAYMENT OF CURRENT CONSUMER ACCOUNTS~~

~~Due to the current financial situation Council finds itself in, extension on accounts in order to prevent termination of services will be limited to the following circumstances:~~

- ~~○ Excessive water leaks (in excess of R500)~~
- ~~○ Excessive additional deposits levied (in excess of R500)~~
- ~~○ Social pensioners, when pension pay date is after Council's final payment date.~~
- ~~○ Account holders who can prove that they are employed, where the pay date is set as the 15<sup>th</sup> day of the month. Council may require the signing of a debit order to qualify for this extension.~~